STORAGE-ITEM
MAIN

LP9-M30A
U.B.C. LIBRARY

BERKELOUW BOOKDEALERS SYDNEY

THE LIBRARY

THE UNIVERSITY OF
BRITISH COLUMBIA

The Burgoyne
East Parade
Keighley

MANUAL

OF THE

PRACTICE, PROCEDURE, AND USAGE

OF THE

HOUSE OF ASSEMBLY

OF THE

PROVINCE OF SOUTH AUSTRALIA.

As governed by the Standing Rules and Orders for Regulating the Public Business of the House, and Proceedings on Private Bills; and by the Rules, Forms, and Practice of the House of Commons, where applicable.

Illustrated by Precedents drawn from the Votes and Proceedings of the House, 1857—1883-4, and the Journals of the House of Commons.

BY

EDWIN GORDON BLACKMORE,

The Clerk-Assistant and Sergeant-at-Arms, House of Assembly, South Australian Legislature.

Author of "The Decisions of Mr. Speaker Denison, 1857-1872;" "The Decisions of Mr. Speaker Brand, 1872-1880;" "Brand's Decisions, 1881;" and "Brand's Decisions, 1882."

Adelaide:

By Authority: E. Spiller, Government Printer, North-Terrace.

1885.

DEDICATION.

TO THE

HONORABLE ROBERT DALRYMPLE ROSS,

SPEAKER,

AND TO THE

MEMBERS

OF THE HOUSE OF ASSEMBLY,

THIS TREATISE IS *INSCRIBED* BY THEIR OBEDIENT SERVANT.

THE AUTHOR.

Digitized by the Internet Archive
in 2010 with funding from
University of British Columbia Library

http://www.archive.org/details/manualofpractice00blac

AUTHORITIES REFERRED TO IN THIS WORK.

Hatsells's Precedents, 4 vols. 1818.

The Law and Usage of Parliament.

By Sir Thomas Erskine May, K.C.B., D.C.L.,
Clerk of the House of Commons,
Ninth edition. 1883.

The Chairman's Handbook.

By Reginald F. D. Palgrave,
The Clerk-Assistant of the House of Commons,
Sixth edition. 1884.

The Decisions of Mr. Speaker Denison on Points of Order, Rules of Debate, and the General Practice of the House of Commons (1857-1872).

By E. G. Blackmore. 1881.

The Decisions of Mr. Speaker Brand on Points of Order, Rules of Debate, and the General Practice of the House of Commons (1872-1880).

By E. G. Blackmore. 1882.

Brand's Decisions (1881). By the same. 1883.

Brand's Decisions (1882). By the same. 1884.

Standing Rules and Orders of the House of Assembly, as amended to October 6th, 1875. 1880.

The Votes and Proceedings of the House of Assembly. 1857—1883-4.

The Journals of the House of Commons.

The Imperial *Hansard*.

Hansard of the Parliament of South Australia.

PREFACE.

The present work is an attempt to set forth the practice of the House in dealing with the Business which comes before it. The Standing Rules and Orders are singularly clear and complete, and it might seem, at the first glance, unnecessary to supplement them by commentary or illustration. But no code was ever devised which could anticipate every possible contingency, and no enactment has as yet been written in language so precise as to admit of only one interpretation. And so it comes to pass that in all cases of doubt recourse must be had to the Journals of the House to ascertain the right system of procedure. Precedent is the lifeblood of Parliamentary Usage, and, when matters arise out of the ordinary experience, the question to be considered is not what is apparently and theoretically right, but what has the House done before in the same or similar circumstances. The Votes and Proceedings of the House are not only a record of legislation and of all the manifold business which comes before the House, but they are a living witness to the Rules by which it is governed, and by which alone it can discharge the functions confided to it by the Constitution.

The first Standing Order of the House expressly provides that the Usages of the House of Commons are to be observed, unless other provision is made.

In compiling this manual the writer has made constant use of that Standard work whose author, in the words of Mr. Speaker Brand on his retirement from the Chair of the House of Commons, "enjoys, deservedly, a world-wide reputation

"as an authority on Parliamentary Procedure."* The author refers, as it is needless to say, to Sir T. Erskine May, K.C.B., Clerk of the House of Commons, to whom he is under many obligations. Reference will also be found in these pages to a most useful volume "The Chairman's Handbook," by Mr. R. F. D. Palgrave, the Clerk-Assistant, House of Commons.

The object of this volume, concisely stated, is to facilitate the course of Business by making clear the Rules which govern it. How far it fulfils that aim must be left to those whose past experience enables them to judge, and to those who, coming new to the work of Parliament, may turn to its pages for a solution of difficulties which occur to them.

In conclusion the writer avails himself of the opportunity of recording the name of a Member to whose suggestion this work owes its origin. While recognising the value of Imperial precedents, and the decisions given from the Chair of the House of Commons by Mr. Speaker Denison and Mr. Speaker Brand, the Hon. J. C. Bray (Chief Secretary and Leader of the House 1881-1884) pointed out that the Practice and Procedure of our own House must more and more be our own work, prescribed and limited by our own precedents and circumstances.

The Standing Rules and Orders of the House of Assembly are, indeed, based upon a Manual of "Rules, Orders, and "Forms of Proceeding of the House of Commons relating to "Public Business," drawn up under the direction of the Speaker of the House of Commons by Sir T. Erskine May, in 1854, and printed in each succeeding Parliament, by Order of the House.† But anyone, who is conversant with the Practice of the House of Assembly and with that of the House of Commons, and has been a diligent student of

---

* *Hansard's* Parliamentary Debates, vol. 284, pp. 1888, 1889.

† Prior to 1854 there was no authorised collection of the Standing Orders of the House of Commons except as to Private Bills.

the course of Business and Debate in the Imperial Parliament, and the paralysis of the Legislative powers of the House of Commons which reached a climax in 1881, must acknowledge that wherein the Standing Orders of this House differ from those of the House of Commons, they differ for the better, and in the direction of more orderly and expeditious conduct of Business.

EDWIN GORDON BLACKMORE.

Clerk-Assistant's Office, House of Assembly,
August 18th, 1885.

TABLE OF CONTENTS.

Page.

THE CONSTITUTION OF PARLIAMENT—

Parliament created by Statute 1
Former Constitution altered in virtue of Imperial Statute..... 1
Act establishing present Constitution 1
Parliament of two Houses 1
Original number of Members of House, and subsequent increase thereof 1, 2
Remarks on Colonial Constitutions 2

THE MEMBERS OF THE HOUSE OF ASSEMBLY—

Issue of Writs—
By the Governor 3
By the Speaker..... 3
Vacancies, how caused..... 3
Voluntary resignation of seat..... 3, 4
Resignation tendered does not affect the rights of petitioners, if any, in respect of seat resigned 4, 5
Seat *ipso facto* void by acceptance of office of profit, except those required to be held by Members..... 5
Resignation usually tendered by letter in such case 5
Where appointment to office is made known by *Gazette*, without tender of resignation, attention called by Speaker thereto, and seat declared vacant..... 5
In doubtful case, vacancy decided by House 5, 6
Question of vacancy referred to Select Committee 6
Contractors in Parliament Act 6, 7
Theory as to Contractors in their relation to Government, and Imperial Legislation..... 7
Crown Solicitor's opinion, that Members being proprietors of newspapers forfeit their seats by publishing, under instructions, Government advertisements..... 7
Resolution of the House affirming the contrary 7, 8
Service of the House obligatory unless leave obtained 8
Member absent, without leave, two consecutive months forfeits seat 8
Attendance roll kept by Clerks 8
Case of Mr. Hart and Mr. Bean, absent two months 8
Leave granted as a matter of course in most cases 8

Page.
Leave refused in the case of Mr. Bean 8, 9
Obligation to take seat without delay after return of Writ reported, or Member recorded as absent 9
Gazette Notice of Insolvency acted upon by Mr. Speaker 9
Registrar General's certificate in case of death 9
Member dying beyond the limits of the Province 9
Disputed Returns Court—Constitution and appointment 9
Vacancies in Court, Various causes of 10
Vacancies filled by House or, in default, by Speaker 10
Court elected by ballot 10
Tie between Members, how decided 10
Ministers incapable of acting as Members of the Court, and must resign if taking office subsequent to appointment 10
Appointment of Court recorded in Journals 10
Controverted elections—Procedure initiated by Petition 10, 11
Petition—Who eligible to present 10, 11
Limit of time for presenting 11
Deposit of money and attestation of signatures 11
Inquiry into the authenticity of signatures of petitioners not made by the House 11, 13
Such inquiry proper for the Court 13
Forged or fraudulent signatures 13
Petition not necessarily read on presentation 13
Petition ordered to be referred to Court, and Court summoned for a specific day, or any day within the limit of time prescribed by the Electoral Act, at discretion of court 14
Petitioners' deposit to be lodged before presentation of Petition, or no proceedings taken 14, 15
Oath administered to Members of the Court by President, to whom it is then administered by a Member 15
Nature of oath 15
Court an open one, and attended by an Officer of the House as Recording Clerk 15
Limit of adjournment 15
Judgment to be given within five sitting days 15
Extension of time granted by House, on Motion 15
If majority of Court fail to decide, President decides 16
No appeal from decision 16
Speaker receives judgment from the President, and reports to House, when it is read by the Clerk 16
Awarding of costs by Court 16, 17
Minutes of Court laid before House 17
Deposit returned to petitioner who has obtained a judgment in his favor 17
Motions referring to Member's seats are privileged Motions 17
Vacancies supplied during currency of Parliament 17, 18

	Page.
System prior to 1872	18
Subsequent to Writs of Election Act, 1872	18
Issue of Writs by Speaker direct	18
Declaration of vacancy by House not necessary	18, 19
Writ issued under Electoral Act, 1879	20
Writ issued by Speaker when absent from House by illness	20
Appointment of Deputy Speaker, and powers	20
Speaker, though absent, performs such other outside duties as he is able to fulfil	20
Powers of Deputy Speaker in Imperial Parliament by special legislation	20
Second election of an unseated Member	21
Speaker declines to administer oath in such a case, pending decision of House, in case of a Member being returned who is disqualified from sitting	21
Committee of Privilege in *re*	21
Oath or affirmation to be taken prior to sitting	22
Commencement of Parliament—Oath administered by one of the Judges, under Commission	22
By Speaker subsequently	22
Introduction of a new Member	22
Member, seated on Petition, not introduced	22
Privileges of Members defined by Act 14, 1872	22
Disabilities attaching to Members to secure freedom from improper influences	22
As to Petitions	23
As to practice as counsel on Private Bills	23
Vote of Member, engaged as counsel on a Bill, struck off	23
Law of Parliament touching Members as counsel, in respect of matters coming before the House	23
A Member, though interested, may move and discuss the Question	24
Disallowance of vote where pecuniary interest	24
Exception—Cases of State Policy and common interest	24
Cases of votes challenged on grounds of pecuniary interest, and appeals to House from Speaker's ruling	24, 26
Cases of votes challenged and disallowed	26
Votes on Private Bills	26

THE BUSINESS OF THE HOUSE—

Business governed by the Constitution Act, Standing Orders, Sessional Orders, Writs of Elections Act, and Electoral Act	27
Nature of business regulated by Constitution Act	27
By Standing Orders	27, 28
Duration of Standing Orders	28
Suspension	28
Procedure when alteration of Standing Orders desired	28

Page.
Sessional Orders, their nature and duration 28, 29
Nature of business regulated by Sessional Orders 29
Times of meeting of House, when fixed 29
The half-past six o'clock adjournment 29
Exception to rule of half-past six, to facilitate business and meet convenience of Members 29, 30
Half-past six o'clock rule, Special suspension of 30
Government Business – Precedence and arrangement of 30, 31
Government Business on private day 31
Daily routine 31
Chair taken 31
No Quorum, House adjourns 32
Quorum present, business proceeds 32
Quorum settled by Constitution Act 32
When House returns from attending on the Governor, or resumes after a temporary suspension of its sitting, the presence of a Quorum need not be ascertained 32
Attention called to no Quorum, directly, or by indirect reference 32
Speaker counts House 32
Bells rung and two-minutes' sandglass turned, when, if no Quorum at the expiration of such time, House adjourns 32
No Quorum proved by a Division 32, 33
Rule in Committee 33
Members present at count out specially recorded 33
Business counted out disappears, but may be restored on Motion 33
Business not called on at time of count out appears as Lapsed Business 33
Lapsed Business not moved or dealt with disappears 33
Exception in 1883-4 ..... 33, 34
Order of Business—
Petitions 34
Notices of Questions and Motions 34
Questions without Notice 34, 35
Business of the Day 35
Motion for irregular adjournment, Object of 35
Questions, with Notice, and answers 35
Notices of Motion 35
Member absent, Motion how dealt with 35
Orders of the Day 35
Postponement of Orders 35
Resumption of Business interrupted by Orders 36
The Notice Paper 36
Occasional Business, not on the Paper 36
Message from the Governor 36
Message from the Council 36
Motions relative to Select Committees 36

Page.
Accounts and Papers 36
Motions for printing 36
Questions of Order and Privilege 36
Motion for adjournment at close of sitting 36, 37
Arrangement of Business 37

THE GOVERNOR—OF THE RELATIONS OF THE GOVERNOR TO THE HOUSE—

Prerogative to summon, prorogue, and dissolve Parliament 38
Election of Speaker by the House, of right 38
Notification to the Governor 38
Confirmation of Privileges 38
Communication by Message 38
Governor's Messages, how brought 38
Suspension of Business on receipt of Message, and procedure on receipt 38, 39
Message communicated by a Minister 39
Messages emanating direct from the Governor, as to Bills, Imperial Despatches and State Papers, Estimates, &c. 39
Irregular communications 40
How dealt with by House 40
Messages in reply to Addresses 40
Addresses not always complied with 40, 41
Advice of Ministers in respect of replies to Addresses 41

THE SPEAKER—THE OFFICE AND DUTIES OF THE SPEAKERSHIP—

The Speaker the representative of the House 42
Duties in virtue of authority from House and by Statute 42
Method of election 42
Meeting of Members convened by Clerk, by circular, to avoid conflict in House 42
At opening of Parliament, House instructed to elect Speaker 43
Election a statutory right 43
Procedure on election 43
Election notified to Governor by the Speaker, attended by Members.. 43
Rights and Privileges claimed 43
Confirmation of claim by Governor 43, 44
The Duties of the Speaker 44
In the Chair 44
By Statute 44
Carries Bills and Addresses to Governor 44, 45
Signs Messages to Council 45
Presents Money Bills to Governor at Bar of Council 45
Ex officio Member of certain Committees 45
Authorises removal of documents laid before House 45

Page.
Advises Members 45
Report of vacancy in office of Speaker, and election in such case.... 45
Speaker elected during currency of Parliament does not claim Privileges 45
Absence of Speaker provided for 45, 46
The Speaker in Committee 46
Expiration of office 46
Procedure in event of contest for Speakership 46, 48

THE CHAIRMAN OF COMMITTEES—

Standing Order directing appointment 49
Speaker formerly Chairman..... 49
Attempts to separate offices of Speaker and Chairman, and date of separation 49
Mode of election 49, 50
Vacancy during Session, how filled 50
Procedure when more than one Member proposed as Chairman..... 50, 51
No record of election unless opposed 51
Duties of Chairman, as to maintaining order, reporting resolutions, conducting business in Committee on Bills, certifying prints of Bills reported, presiding in Committee of Supply and Ways and Means, and exercising office of Deputy Speaker 51, 52
Difference between practice in Imperial Legislature and that of South Australia in respect of office of Chairman 52

THE OFFICERS OF THE HOUSE—

The Clerk of the House, and the Clerk-Assistant and Sergeant-at-Arms 53
Their places at the Table..... 53
Duties of the Clerk of the House 53, 54
Duties of the Clerk-Assistant..... 54, 55
Duties of the Clerk-Assistant as Sergeant-at-Arms 55
The Clerk of Committees 55
Sessional Clerk..... 55

THE MEETING OF PARLIAMENT—

Governor summons Parliament 56
By Proclamation in *Gazette*..... 56, 57
Clerk gives Notice, of at least fourteen days, to Members by circular 57
Procedure on meeting 57
Clerk reads Proclamation..... 57
House summoned by Messenger to attend Governor's Commissioners in Council Chamber..... 57
And is there instructed to elect Speaker 57
Commissioner informs House when Governor will, in person, open Parliament..... 57, 58

Page.
Commissioner attends in Chamber to administer oath to Members .. 58
Commission read, and Returns to Writs laid on Table and read by Clerk, when oath is administered 58
Election of Speaker, and presentation to Governor 58
The Speaker, on return, reports proceedings on presentation 58
House attends in Council, and hears the Opening Speech 58
On return, some business transacted 58
Speaker reads Governor's Speech 58, 59
Committee for Address in Reply appointed 59
Papers laid on Table 59
Adjournment 59
Opening of Session other than the first of Parliament 59
Case of opening of Session, 1879 59
Meeting of Parliament at a date earlier than that to which prorogued 59, 60
Usual day of meeting 60
Duration of House 60

PROROGATION OF PARLIAMENT—

Governor prorogues 61
Effect of Prorogation 61
Prorogation to renew Bill 61
Prorogation and further Prorogation 61
Procedure when Governor prorogues 61

THE JOURNALS OF THE HOUSE—

The Journals—Their subject matter 62
Prepared by the Clerk; and perused by Speaker prior to printing .. 62
The legal character of the Journals 62
Entries, Expunging of 62, 63
Record Journals of the House in the custody of the Clerk 63

THE ADDRESS IN REPLY TO THE OPENING SPEECH—

Only formal business precedes Address 64
Object of transacting some formal business prior to Address 64
Original Standing Orders permitted other business 64
Suspension of Standing Orders to allow business other than merely formal to be taken 64, 65
Report of speech by Speaker 65
Appointment of Committee 65
Reference of speech to Committee 65
Draft reply brought up, read, and adoption moved 65
Amendments to Addresses in Reply 65, 66
Appointment of another Committee in certain cases 66
Address presented to Governor 66, 67
Reply of Governor reported to House 67

Page.

ADDRESSES TO HER MAJESTY AND MEMBERS OF THE ROYAL FAMILY—

Addresses of congratulation, condolence, thanks, &c. 68, 69
Addresses on Questions of public policy 69
Address to the widow of a Governor 69
Address to the Vice-President, United States 69
Practice and procedure in moving Addresses 69, 70
Addresses moved in the House 70
Addresses moved, and Committee appointed therefor 70, 71
Addresses moved in Committee of the Whole House 71, 72
Committee to prepare Address founded on resolution of a Committee of the Whole 72
Similar Addresses in both Houses 72
Addresses communicated to the Governor for presentation to Her Majesty, or others 72, 73
Address communicated, by Speaker, direct to the subject thereof 73

ADDRESSES TO THE GOVERNOR—

Object of Address 74
Form and subjects of Address 74
Addresses for public money 74
Presentation of Address by Speaker 75
Presentation not notified 75
Presentation by the whole House 75
Procedure thereon 75
Presentation reported to House 75
Address in reply to a Message from a Governor assuming office during a Session 75
Procedure adopted on this occasion 75
Address presented by whole House 75, 76
The mover and seconder of Address, when Address presented 76

ADJOURNMENT OF THE HOUSE—

Adjournment is in the sole power of the House 77
Daily adjournment—Motion and procedure 77
Adjournment, to time and day other than usual, on Motion before regular business 77
Motion for adjournment is a substantive one 77
Open to Amendment, with limitation 77, 78
Protracted adjournments 78
Contingent adjournments 78
Adjournment as mark of respect 79
The Motion—That the House do now adjourn 79
No debate thereon 79
Cannot be moved by Members who have spoken to the Question before the House 79

Page.
Interval must elapse before repetition of such Motion 79
Irregular Motion for adjournment, with a view to bring a matter of urgency before the House 79, 80
Practice of debate on such Motion 80
Temporary adjournments, and suspensions of sitting 80

CALL OF THE HOUSE—

Call ordered on important Question 81
Form of Motion for a Call 81
Time necessary to elapse before Call can be made 81
Call of the House is first Order of the Day on the Paper 81
Call, how made 81, 82
Order for Call postponed, discharged 82
Motion for Call amended or negatived 82
Members absent when Call made 82, 83
Order for Call discharged 83
Practice of Imperial Parliament in respect of Call of the House 83

COMMISSIONS—

Commission defined 84
How instituted 84
Object of appointing a Commission in preference to a Select Committee 84
Constitutional limitations 84, 85
Commission, how moved for 85
Practice in moving for Commissions varies as to terms of Motion .. 85, 86
Irregular in moving for a Commission to settle its composition 86
Addresses for Commission may suggest names 86
Statutory Commissions 86
Message sent only in reply to Address 86
Enlargement of inquiry 87
Commission reports to Governor 87
Reports communicated to Parliament 87
Questions or information irregular prior to Report 87
Except Questions as to probable date of Report 87
Departmental and Special Commissions Reports withheld at discretion of Government 87
Motion for production of such Reports 87
Question as to action after Report 87
Motion to concur in Report 87

COMMITTEES—

Classification of Committees 88
Functions of Committees of the Whole House 88
Sessional Committees—
Duration of 88
Powers of 88

Page.

Sessional Committees—
Classification 88
Joint Sessional Committees of both Houses 88
Composition of 88
Method of election 88
Procedure to elect 88, 89
Vacancies in 89
Special Committees 89
" " to search Journals of Council 89
Committees in connection with proceedings on Bills 89

DIVISIONS—

Questions decided by voices 90
By division 90
Object of dividing on important Questions 90
Procedure when Division demanded 90, 91
Doors locked 91
Question again put 91
Votes, how ascertained 91
Result declared by Speaker 91
Postponement of Division 91, 92
Member demanding Division must vote 92
Other Members may retire till doors locked 92
Member present, when Question put with locked doors, must vote .. 92
Members present, after Question so put, and unable to vote 92, 93
Member calling for Division must vote with minority 93
Member's vote must accord with his voice, unless challenging the Speaker's decision 93
Member may vote against his own Motion 93, 94
Member may, by leave, withdraw call for Division 94
Voices on both sides necessary for Division 94
Interpretation of Standing Order as to voices on both sides 94, 95
Pairs 95
Rule as to "voices" 95
No Division if only one Member on a side 95, 96
A second Division in certain cases to rectify error 96
Correction of error in Division list 96
Member voting on both sides 96
Casting vote of the Speaker 96, 97
Reasons recorded 97
Principle governing casting vote 97
Classification of principles governing casting votes 97
Instances of principles 97-99
Instances of casting votes according to Speaker's views on Question 99-101
Casting vote on Want of Confidence votes 101
Instances of casting votes for and against the Ministry of the day..101, 102

Page.
Chairman's casting votes governed by same rules 102
Instances.....102, 103
Pairs 103

THE LEGISLATIVE COUNCIL AND HOUSE OF ASSEMBLY.
COMMUNICATIONS BETWEEN THE TWO HOUSES—

Means of communication..... 104
Subject of Messages 104
Messages can only pass between the Houses when both are sitting .. 105
Instances of attempt to carry a Message when the House was not sitting..... 105
Procedure on receipt of Message 105
Conferences.....105, 106
Subjects of Conferences 106
Conferences not to be anticipatory..... 106
Procedure to bring about a Conference..... 106
Message requesting Conference and stating objects thereof.....106, 107
Managers may be selected 107
Number of Managers 107
Imperial practice 107
Time and place for Conference 107
House suspends action during Conference 107
Ordinary and free Conference..... 107
Procedure 107
Second Conference 108
Procedure 108
Free Conference 108
Procedure 108
Result, if free Conference fails 108
Imperial practice 108
Precedent of complete procedure from an ordinary to a free Conference. 108-112
Subsequent action in consequence of the fate of the Bill recorded .. 112

PAPERS, ACCOUNTS, REPORTS, RETURNS—

Necessity of access to documents 113
Means provided to make documents available 113
Methods by which Accounts and Papers are laid before Parliament.. 113
Examples of Papers laid on in the various ways provided 113, 114
Certain Papers laid on by the Speaker 114
Papers quoted in debate 114
Papers for Committee of Supply 114
Papers should be moved for only in the manner specially applicable to their nature 114, 115
Motion for Papers by Address where prerogative is concerned 115
Principle not always applied in practice 115

Page.
Instances of Returns to the Order of the House, which were properly subjects for Address 115, 116
Governor transmits Papers in compliance with Address 116
Certain Papers improper to be communicated, and Address therefor not complied with 116
Copies of Papers, not originals, moved for 116
"Cabinet Minutes" excepted from Returns 116
Incorrect or unsatisfactory Returns referred back for Amendment, or declined 117
Incorrect returns cancelled, and corrected Return substituted 117
Plans relative to Bills, and documents quoted in debate, laid on 117

PETITIONS—

Petitions presented at commencement of day's business 118
Subject of Petitions, Division of 118
Superscription—Wording and prayer 118
Formal words of prayer 118
"Prayer" essence of Petition 118
"Memorials" 119
Petitions must be legible, in the English language, or with certified translation 119
The signatures must be those of the persons whose names are appended, except in case of incapacity or sickness 119
Imperial practice differs somewhat from that of the House in the matter of incapacity 119
Signatures not to be pasted on Petition or transferred thereto 119
One signature, at least, compulsory on sheet on which Petition is inscribed 119
Petitions from Corporations 119
Only signatories recognised as petitioners 119
Petition signed by Chairman of a public meeting 119, 120
Documents must not be attached 120
Proper language obligatory, and reference to debate not permitted .. 120
Decision as to propriety of language arrived at by House, as case arises. 120
Subjects of Petitions 120
Petitions only presented by a Member 121
Member cannot present Petition from himself 121
Duty of a Member, in respect of Petition, to ascertain it is regular.. 121
Procedure on presenting Petitions 121
Irregular Petition returned 121
A Member can petition the House, the Petition being presented by another Member 121
Petitions referring to a Question before the Chair, when to be presented 121
Instance of Petition relating to a matter before the House wrongly presented 121, 122

Page.
Printing Petitions—Procedure 122
Subsequent action on Petition 122

NOTICES OF QUESTIONS AND NOTICES OF MOTION—

Notices, when called for 123
Questions requiring Notice 123
Time between giving Notice and asking 123
Irregular Questions corrected by Speaker 123
Notice of Motion, Object of giving 123
Rules common to Notices of Question and of Motion 123, 124
Order in which Notices appear on the Paper 124
Notice given by one Member for another 124
Notice postponed or amended 124
Limit of time as to receiving Notices 124
Rule not applicable to receipt at Table by Clerks 124

QUESTIONS—INTERROGATORY; AND ANSWERS—

Questions without Notice and with Notice 125
Questions to Ministers and Members 125
No debate allowed on Questions 125
Only Questions on Notice, and replies thereto, recorded in Journals .. 125
Questions postponed to later day, when called on 125
Question not taken up drops off 126
Question asked by one Member for another 126
Questions need not be read 126
Limitation of language 126
Argument and opinion not allowed 126
Objects of rule—Limitation as to what may be stated on asking Question 126, 127
Question cannot be amended 127
Questions made Orders 127
No debate on reply to Questions 127
Limits to be observed in replying to Questions 127
Question cannot be renewed when answered, nor can reply be debated; but further Question arising out of reply permitted .. 127
Minister declining to answer 127
Unsatisfactory answer refused 127
Member replying to Question in regard to a Bill cannot explain provisions thereof 128

MOTIONS AND QUESTIONS—

Motion, how defined 129
Motion proposed becomes a Question 129
Motions without and with Notice 129
Certain Motions always in order, without Notice, and such are not debated 129

Page.
Examples of such Motions 129
Limitation imposed on Members competent to move certain of such Motions, and on repetition thereof 129, 130
Practical limitations on Motion to adjourn debate 130
Motion to adjourn House to an irregular time 130
Suspension of Standing Orders to dispense with Notice 130
Motions on Notice 130
Object of Notice 130
Motions read from the Chair 130
Various ways of dealing with Motion when proposed 130
Irregular Motions declined by Speaker 131
Member called by Speaker to propose Motion 131
Certain Motions made without debate generally 131
Motion, when called on, how dealt with 131
Motion moved by one Member for another 131
Restriction in Imperial Parliament as to Member acting for another .. 131
Motion proposed and seconded, and put from the Chair 131
Motion not seconded, not entertained or recorded 132
Time when debate on Motion arises 132
Adjournment of the debate 132
Amendment of the Question 132
Withdrawal of Motion 132
Renewal of Motion 132
Leave to withdraw must be unanimous 132
Member acting for another can withdraw 132
Amendment must be withdrawn prior to withdrawal of Motion 132
Proposer of Amendment alone competent to withdraw 132
Complicated Questions divided 133
Separate Question put on each part of Question so divided 133
Question finally put from the Chair 133
Contingent Motions 133-135
Notice of Amendment does not give priority 135

AMENDMENTS—

Amendments to Question 136
Modes of amending Questions 136
Notice of Amendment not necessary, but convenient in cases of importance 136
Amendments on Notice can only be moved by the original proposer .. 136
Not competent to move an Amendment identical with one on the Paper 136
Amendment to leave out words, how put from the Chair 136, 137
Question, how finally put 137
Amendment to leave out words, and to add or insert words 137
Question, how finally put 137
Mutilated Questions, how dealt with 137

Page.
Mutilated Questions, Imperial practice 137
Motion mutilated partly, but so as to leave no Question for decision 137, 138
Amendment merely to insert or add words 138
Question, how finally put 138
Same Question open to several Amendments 138
Restrictions on such several Amendments 139
Order in which Amendments should be offered 139
Amendments on Amendment 139
Various modes of amending an Amendment 139
Procedure on Amendment proposed to Amendment 140
New Question practically raised, and original laid aside *pro tem.* 140
Amendment to the Amendment to insert, add, or omit words 140
Procedure on Amendment to an Amendment to insert or add words .. 140
Procedure on Amendment to leave out words proposed to be omitted by original Amendment 140
Amendment on Amendment to leave out words, and insert others in lieu in original Question 140, 141
Procedure 141
Instance, as exemplified in May's Practice 141
Several Amendments to proposed Amendment 141
Amendment of the nature of a substitution 141, 142
Relevancy of Amendments 142
Instances of irrelevant Amendments refused (Imperial Parliament) .. 142
Orders of the Day—Relevancy of Amendments 142
Amendment to evade original Question 142, 143
Procedure 143
New Question thereby submitted 143
Instances in Imperial Parliament of Amendments evading original Question, and entirely new Question of an opposite character submitted to the House 143, 144

QUESTIONS—SUPERSEDED—

Direct ways of evading Question 145
By adjournment of House 145
By reading Orders of the Day 145
By Previous Question 145
By Motion that House do now adjourn 145
Motion that House do now adjourn cannot be amended 145
Effect if adjournment carried 145
Effect if no Quorum 145
Effect of Motion to read Orders of the Day 145, 146
Amendment to a particular Order of the Day 146
Previous Question 146
Object of Previous Question 146
Previous Question, how put 146
Restriction on 146

Page.
Previous Question open to debate 146
Previous Question bars further Amendments 146
Previous Question cannot be amended 146
Cannot be moved after Motion to read the Orders of the Day 146
Effect if Previous Question carried 146, 147
Effect if lost 147
If lost, original Question at once put 147
Motion to adjourn House after Previous Question proposed 147
Question superseded and revived 147
Series of resolutions and Previous Question 147
Peculiarity of voting on Previous Question 147
Previous Question in Congress, U.S. 147

SAME QUESTION TWICE OFFERED—

Same Question not to be again proposed 148
Resolution or vote may be rescinded 148
Object of rule of same Question 148
Question of identity settled by Speaker or House 148
Instances 148-150
Practice in respect of proceedings on Bills 150
Bills open to Amendment on each stage 150
Rescinding technically a new Question 150
Rescinding a negative vote 151
Instances of rescinding resolutions 151, 152
Date of present restriction 152

STRANGERS—

Standing Orders recognise their presence 153
Admission of strangers 153
By the Speaker and by Members' orders 153
Speaker orders withdrawal at discretion, or if attention called 153
Attempt to suspend Standing Orders enforcing withdrawal 154
And Question referred to Standing Orders Committee 154
Imperial practice 154
Stranger heard at Bar as petitioner 154

WITNESSES—

Right of the House to compel evidence 155
Similar power granted to Select Committees 155
Witnesses before House summoned by Speaker 155
Examination of Witnesses, how conducted 155
Withdrawal while House deliberates 155
Not examined on oath, except where legal provision 155
Speaker's warrant to produce Witness, who is in prison 155
Members, examination of 156
Members and Officers of Legislative Council as Witnesses 156

Page.
The Judges as Witnesses 156
Evidence, privileged 156
Witness refusing to answer Select Committee reported to House 156
Procedure and instance 156
House excuses reply if reason shown 156, 157
Witness absent from usual residence when summons served there—
Procedure 157
Statutory power to administer oath by House of Commons 157

VOTES OF THANKS—

Precedence of Motion for Vote of Thanks 158
Instance..... 158
Vote communicated by Speaker 158
Instance of rejection by House of proposed vote 158

SELECT COMMITTEES—

Composition and object of Select Committee 159
Standing Orders, affecting 159
Initial procedure to appoint 159
Select Committees on Bills 159
Election by ballot..... 159
Number defined by Standing Orders..... 159
Immunity of Speaker from serving 159
Speaker placed on certain Special Committees 159, 160
Personal interest provided against by Standing Orders 160
Members bound to serve 160
Member excused by House for valid reason 160
Discharge of Members and appointment of others on Motion with
Notice 160
Instances 160
Notice not always given 160
Instances 160
Constitution of Select Committee notified by Speaker, and Question
put for necessary powers..... 161
Mover convenes first meeting..... 161
Summons issued, and memorandum of meeting on Notice Paper 161
List of Committees posted 161
Procedure on first meeting 161
Quorum 161
Quorum must be present before business proceeds, otherwise Members
present recorded and retire 161
Clerk convenes next meeting.....161, 162
Business day, how understood 162
No Quorum during sitting, proceedings suspended 162
Election of Chairman 162
Formal Business at first meeting 162

Page.
Minutes of proceedings kept 162
Record of proceedings and division 162
No Committee while House is sitting 162
On Speaker taking Chair, proceedings closed for the time 162
House may permit Committee to sit while House is sitting 162
Leave to adjourn from place to place 163
Committee adjourns itself from time to time 163
Witnesses summoned to attend and bring documents 163
Rule as to ordering Papers 163
Instances illustrative of documents ordered 164-166
Original documents restored by Order of House 166
Witnesses summoned by Clerk 166
Members, how summoned 166
Procedure in case of refusal by Member 166, 167
Examination of Witnesses, how conducted 167
Admission of strangers 167
Admission of other Members 167
Witness unable to attend 167
General invitation to persons desiring to give evidence 167, 168
Application to appear as Witness 168
Application to be heard by Counsel 168
Instances 168
Motion in House for leave 168
Private agents not allowed 168
Instance 168
Conduct of case by Counsel subject to Committee 169
Instance 169
Previous evidence read to a Witness under examination 169
Written evidence 169
Written statements 169
Witness allowed to review evidence 169
Witness in custody brought before Committee on Speaker's warrant 170
Instance 170
Refractory Witness, how dealt with 170
Evidence supplied, during progress in certain cases, to persons interested 170, 171
Evidence not disclosed prior to Report 171
Reporting and printing of evidence 171
Distribution of evidence 171
Correction of evidence by Witness 171
Draft Report, how prepared 171, 172
Practice, as regulated by Standing Order 172
Draft Report open to Amendment 172
Amendments cannot exceed Order of Reference 172
Chairman prepares Draft Report 172
Practice in Imperial Parliament 172, 173

	Page.
Final resolution on Report	173
Chairman signs	173
Report, how brought up	173
Documents accompanying Report	173
No discussion on presentation	173
Reports frequently brought up prior to day ordered	173
Extension of time for Report	173
No publication till Report	173, 174
Progress, Evidence, and Report	174
Instance	174
Final Report closes Committee	174
No reference in House to Committee prior to Report	174
Motion for subsequent proceedings	174, 175
Proceedings in House on Report	175
Report and documents printed	175
Action taken arising out of Report	175
Instances	175-177
Order by House to produce documents omitted by Committee; and laying on of same by Speaker	177
Payment of Witnesses	177
Practice of payment	177
Travelling and reporting expenditure	178
Costs guaranteed in private matters	178
Instance	178, 179
Costs not applied for in certain case	179
Power to confer and exchange documents with similar Committees of Council	179
Select Committees continued as Commissions	179
House cannot compel attendance of a Member of Council as Witness	179

COMMITTEES OF THE WHOLE HOUSE—

Definition of a Committee of the Whole	180
Quorum	180
Conduct of business	180
Principal advantage of a Committee of the Whole	180
Financial matters proper for the Committee	180
Committee formed on resolution	180
Speaker leaves Chair	180
Progress reported, and resumption of Committee without Question	180
Chairman takes the Chair	181
Appointment of Chairman	181
Temporary Chairman	181
Duties of Chairman	181
Proceedings, interrupted	181
Standing Orders regulating proceedings of Committee	181, 182
No seconder in Committee	182

Page.
Previous Question not moved in Committee 182
Reason for this prohibition 182
Powers of Committee limited 182
Nature of Questions remitted to Committee 182
Bills in Committee, and Supply, and Ways and Means 182
Instances of Questions considered in Committee 183
Question for Speaker to leave the Chair 183
Proposed resolutions should not be discussed in House 183, 184
Amendments to Question for Committee 184
Practice in relation to Supply; if Amendment to Committee Motion carried 184
Chair of Committee taken—Procedure 184
Amendments in Committee 184
Resolutions, how dealt with 184
No power to adjourn or postpone 184, 185
Progress reported 185
Leave to sit again 185
Entry on Notice Paper 185
Principle of progress not applicable to Supply and Ways and Means 185
Report of Committee of the Whole 185
Standing Order and ordinary practice as to Report 185
Procedure on Report to House 185
Resolutions, how dealt with on Report 185
Report in negative 186
Motion for Chairman to leave Chair 186
No Report made 186
Counted out 186
Rule as to Dilatory Motions 186
Proceedings in House not discussed in Committee 186
Abstract Questions, though involving ultimate expenditure, if acted upon, not necessarily discussed in Committee 186

THE COMMITTEE OF SUPPLY AND THE COMMITTEE OF WAYS AND MEANS—

Privilege of House to grant Supplies 187
Opening and closing speech of Governor recognises this right 187
Constitutional principle underlying practice in grants to the Crown .. 187
Distinct functions of Committee of Supply and Committee of Ways and Means 187
Similarity of practice 188
Money votes suggested by Crown 188
Setting up of Committee of Supply 188, 189
Duration of Committee 189
Entry on Notice Paper 189
Committee awaits "Estimates" 189
Ordinary practice prior to receipt of Estimates 189

Page.
Arrangement of Financial Year necessitates Supply Bills 189, 190
Procedure in Committee of Supply preliminary to Supply Bill..... 190
Committee of Ways and Means to form a Supply Bill 190
Several Supply Bills 190
Report of Supply before Estimates considered 190, 191
Granting of Supply and Supply Bill before Estimates received 191
Instances.....191, 192
Supply Bills limited in amount and as to period..... 192
Change in Financial Year 192
Report of Estimates prior to Supply Bill (1874) 192, 193
Supply Bill for limited period (1874)..... 193
General practice since 1874, and precedents cited 193-195
Votes of credit—Former practice.....195, 196
Business and practice of Committee of Supply 196
Premature creation of Committee (1881) 196
Estimates received by Message 196, 197
Referred to Committee of Supply 197
Regular Sittings, deferred till after Financial Statement 197
Budget speech and Financial Statement defined 197
Order of the Day read—Supply in Committee, and consequent Motion 197
Usually affirmed at once to enable Financial Statement to be made.. 197
First vote in Estimates moved 197
Progress reported 197
Principle of progress not applied to Supply and Ways and Means .. 198
Committee Motion made on each occasion 198
Amendments to Motion and debate 198
Amendment to Order of the Day 198
Effect of Amendment being negatived 198
Amendment to Amendment to Committee Motion 198
No Motion except as an Amendment to Committee Motion 198
Effect of carrying Amendment 199
Consequent Motion to keep alive the Committee..... 199
Main Question and Amendment both negatived—Subsequent procedure 199
Question negatived and no Amendment 199
Subsequent Order..... 199
Order of the Day postponed 199
Close of debate on Financial Statement—
First vote read 200
Definition of vote and item..... 200
Votes put by items if desired 200
Certain votes put item by item 200
Amendments to Question upon total 200
Prior Amendments not permitted unless subsequent withdrawn 200
General identity of practice in all Committees of the Whole..... 200
Special Standing Orders relating to procedure in Supply 201

Page.
Precedents of practice in Supply (1869-70) 201-204
Standing Order 400, and House of Commons resolutions, 1868 204
Imperial practice binding in Committee of Supply 204, 205
Total, as put, corresponds with vote as amended; but may be amended 205
Instance 205
Committee's power limited to reduction 206
Alteration of words of vote 206
Instances 206
Increases recommended by Message 206
Message considered in Committee of Supply 206
Matters referred to the Committee 206
Loan Estimates, practice in respect of 206, 207
Progress reported 207, 208
Committee Motion to be again made when progress has been reported 208
Resolution reported and Report received subsequent day 208
Report of resolution in progress 208
Resolutions considered on a later day 208
Report generally deferred till action necessary 209
Expedition characteristic of Ways and Means 209
Vote or item reconsidered 209
Vote or item recommitted 209
Reduction in House 209
Report referred back 209
Recommitment to discuss a matter 209
Instance 209, 210
Expedition in matters of Supply, &c. 210
Suspension of Standing Orders 210
Report of Supply usually considered on a future day 210
Function of Committee of Ways and Means 210
Creation of Committee 211
Resolution 211
Appropriation Bill based on resolutions 211
Expedition in passing Appropriation Bill 211
Ways and Means limited by Supply 211
Illustration of practice 211, 212
Appropriation Act 212
Reserved till end of Session 212
Session without Appropriation Act 212
Several Appropriation Acts in a Session 212-214
Premature attempt to introduce Appropriation Bill (1864) 214
Substitution of Estimates for those originally presented 214
First resolution on creation of Committee of Supply received at once 214
Instance of exception 215
Not customary to debate Committee Motion to consider Governor's speech relating to Supply 215
Taxation—Functions of Committee of Ways and Means 215

Page.
Recommendation of Crown necessary for Taxation 215
Proposals by private Members 215
Abstract resolutions 215
Alternative Taxation 215
Measures to relieve Taxation 215, 216
Creation of Committee 216
Amendments on Committee Motion 216
Instances of resolutions moved in Committee 216, 217
Procedure in Committee 217
Progress principle not applied 217
Amendments to Committee Motion 217
Longer or shorter time 217
Resolutions cannot be increased 217
Relevancy of Motions or Amendment on Committee 217, 218
Instances 218
Amendments to preliminary resolution 218
Instance 218, 219
Procedure on Specific Taxes similar to procedure on Estimates 219
Item put as a whole or separately 219
Amendment, lower rate put first 219
Amendment to increase 219
Instances 219, 220
Amendment effecting reduction 220
Resolutions received on a day later than Report 220
Instances 220
Suspension of Standing Orders 220
Rule not observed, though Standing Orders not suspended 220
Resolution read 220
Amendment to Question on resolutions 221
Instances 221
House can only reduce on Report 221
Tax may not be varied 221
Recommitment to increase 221
Reduction negatived by House, provided existing tax not thereby increased 221, 222
Bills 222
Amendments in Committee on Bill 222
Permanent taxes 222
New or temporary cases 222
Resolution referred to Committee on Bill 222
Taxes capable of originating in an ordinary Committee of the Whole 222
Instances 222, 223
Loan Bills originated in Ways and Means 223
Procedure 223
Resolution in Committee 223
Bill ordered 223

Page.
Variations in practice 223
Recommended by Message, and latterly based on Ways and Means Committee 223
Practice up to 1866-7 223
Practice, 1867 ..... 223, 224
Practice, 1874 224
Practice, 1875 224
Bills originated in Supply 224
Practice, 1876 224
Bills originated in Ways and Means 224, 225
Message before Report considered 225
Message subsequent to Report 225
Bill introduced on resolution without Message 225
Statement of precedent in case 225, 226
Practice, 1878, 1879 226
Message before Committee of Ways and Means created 226
Message for Loan Bill referred to Committee of Supply 226
Practice, 1881 226
Message referred to Committee of Ways and Means 226
Practice, 1882, 1883-4 226
Addresses for grants of money 226
Standing Orders relating thereto 227
Subjects of Addresses 227
Addresses complied with 227
Instances, 1872, 1873, 1874 227
Change in action of Ministers in respect of Addresses for money grants 227, 228
Practice of moving such Addresses virtually extinct 228
Addresses subsequent 228
Imperial Parliament—Debate in House of Commons on private Members initiating money votes 228, 229

PUBLIC BILLS—

Definition of a Bill 230
Definition of an Act 230
Public and Private Bills 230
Definition of a Public Bill 230
Private Bill, how founded 230
Certain Bills deemed Public 230
Initiation of Public Bills 230
Initiation by the Governor 230, 231
Instances 231
Mr. Speaker Hawker's opinion on introduction of Bills, 1862 ..... 231, 234
Resolution of House against initiation by Governor 234
Standing Order relative to initiation of Public Bills 234
Standing Order relative to Bill affecting Trade 224

Page.
Bills introduced in House direct 234
Procedure 234
Bills founded upon resolution in Committee 234
Procedure 234, 235
Chairman moves for leave to introduce Bill 235
Resolution read 235
Motion for Committee to prepare Bill 235
Bill presented immediately on leave 235
Procedure on presenting 235
Title read by Clerk 235
First reading 235
First reading negatived, and Bill revived 235
First reading affirmed, Bill printed, and ordered to be read a second time 236
Introduction of Bills at date subsequent to leave 236
Indorsement on Bill 236
Bill must correspond with leave 236
Standing Orders relative to Bills 236
Fair copy to be presented 236
Clauses to come within the title 236
If irregular, to be withdrawn 236
To be presented by Member 236
No alteration other than clerical after first reading before second reading 236
Bills presented in manuscript 236
Practice in respect of printing 236, 237
Bills not relating to trade founded on resolutions in Committee 237
Instances 237
Recent practice dispenses with Committee in ordinary cases 237
Instances 238
Second reading, Standing Orders relative to 238
Question for second reading 238
Amendments to such Question 238
Amendments to be relevant 238
Motion for second reading 238
Seconder to Order of the Day for second reading not necessary 238
Absence of Member in charge of Bill 238, 239
Question for second reading negatived 239
Decision not final 239
Question revived 239
Usual Amendments to second reading 239
Previous Question 239
Motion and Amendment, and Question for reading, negatived—Procedure to revive Bill 239
Motion for "now" reading, and Amendment "This day six months," negatived; another day named, and new Question constituted thereby 239, 240

Page.
Previous Question, how entered diversely in Journals 240
Amendments to second reading of the nature of resolutions 240
Resolutions may be moved on any stage.....240, 241
Relevancy of Amendments 241
Instances of Amendments of the nature of resolutions 241, 242
Effect on Bill if resolution carried 242
General resolution relative to Railway Bills..... 242
Committal 242
Reference to Select Committee a direct Motion, not an Amendment to Committee Motion 242
Committal after Select Committee has reported 243
Amendments to Question for going into Committee..... 243
Amendments to Committee Motions of the nature of resolutions 243
Instances.....243, 244
Instructions to Committee on a Bill 244
Procedure in Committee 244
Preamble postponed 244
Question regarded as formal 244
May be negatived..... 244
Imperial practice 244
Clauses, how put 244
Only number and marginal note read..... 244
Clauses put in groups 244
Amendments 244, 245
Several Amendments proposed, practice in respect of and limitation.. 245
An Amendment, practically a new clause, not permitted 245
Question on amended clause 245
Amendments to clauses, &c. 245
Postponement of clause 245
Schedules 245, 246
New clauses 246
Preamble 246
Title 246
Rules as to Amendments admissible 246
Bill committed *pro forma*, to allow of considerable Amendments 246
And recommitted when so amended 246
Instance 246, 247
Ruling of Mr. Speaker Kingston thereon 247-251
Progress reported 251
Procedure 251
When Order for Committee to sit again, no Committee Motion made. 252
Effect of resolution that Chairman leave Chair 252
No Report 252
Committee revived 252
Count out 252
No notice till Committee reports 252

Page.
Question for Report 252
Reconsideration of clauses 252
Procedure on reporting 252
No reference to Select Committee after Report 253
Adoption of Report 253
Reprinting a Bill during progress 253
Bill left in Committee and not reported 253
Recommitment 253
Recommittal where no Amendments made 253
Second Report brought up on subsequent day 253
Recommittal, and no Amendments made 253, 254
Adoption of Report 254
Instance 254
Frequent recommitments 254
Third reading, Fixing day for 254
Recommitment on reading Order for third reading 254
Irregular recommitments 254, 255
Amendments to third reading 255
Irregular recommitment as Amendment to Question for third reading. 255
No Standing Order providing for resolutions as Amendments to third reading 255
Practice 255
Insertion of "not" in Question for third reading 255, 256
Amendments to Bill on third reading 256
Order discharged to amend Bill 256
Clerical errors 256
Chairman's certificate 256
Question that Bill pass, &c. 256
Division and debate thereon 256
Question delayed 256
Bill sent to other House 256
Message, and Clerk's certificate 256, 257
Governor's recommendation 257
Time when recommendation may be communicated 257
Instances 257, 258
Bill not recommended, resolution rescinded, and proceedings renewed 258
Bill sent to Council, and returned, by request, for Governor's recommendation 258
Recommendation after passing 258
Recommendation should be at initial stage 258, 259
Recommendation and consent—Difference in practice 259
Consent when necessary 259
Consent when signified 259
Instance 259, 260
Clerk's certificate on Bills recommended 260
Clause 40, Constitution Act 260

Page.
Bill received from Council, and amended by House so as to require recommendation 260
Ordinary certificate on a recommended Bill 260
Certificate in instance quoted 260
Glenelg Railway Bill received from Council and recommended to House by Governor—Procedure 260, 261
Special report and certificate 261
Case of Ocean Dock Bill, 1882 261
Received from Council and amended by House 261
Governor's recommendation and special certificate 261, 262
Rule established by foregoing precedents 262
Expedient in Imperial Parliament to allow Bills of the nature of Money Bills to originate in the Lords 262
Opinion of Mr. Gladstone adverse thereto on Constitutional grounds 262, 263
Governor's recommendation omitted and Bill laid aside in Council in consequence 263
House appoints Search Committee 263
Bill re-introduced 263
Instance—Inscribed Stock Bill, 1882 263
Report of Committee of Search 263, 264
Subsequent procedure 264
Bill re-introduced 264, 265
Special majority required on second and third readings of a Bill to amend Constitution Act 265
Special certificate thereon 265
House counted to ascertain majority 265, 266
Precedents of practice on Constitution Amendment Bills and counting House 266-268
Attempt to revive Bill not read by requisite majority not permitted under rule of same question 268
Bills returned by Council 268
Without Amendments 268
With Amendments 268
Amendments considered in Committee 268
Committee Motion made 269
Committee Motion negatived or amended 269
Amendments considered—Message sent 269
Amendments affecting Privilege 269
Certain Amendments agreed to by House though affecting Privilege indirectly 269, 270
Various ways of dealing with Council's Amendments 270
Amendments improper to be made 270
Amendments infringing Privilege 270
Instances 270, 271
Procedure in Committee on Amendments 271
Question on Amendments—How put 271

Page.
Occasional but less correct form 271
Inconvenience from Questions so put 271
An Amendment treated variously—Question how put 271, 272
Amendment to Amendment 272
Report of Committee on Amendments 272
Reconsideration of Amendments—Procedure by recommitment 272
Further Amendments—Schedule 272
Consequential Amendments—Nature and Limitation 272, 273
Effect of revival of original words—Amendment thereof 273
Amendments of Council disagreed to, Bill returned with reasons 273
Committee of three for reasons 273
Instances of imperfect Committees of two Members only 273
Report of the Committee to prepare reasons..... 273
Motion to adopt reasons—Amendment thereto 273, 274
Expedition in dealing with Amendments 274
Procedure on disagreeing to Council's Amendment 274
Procedure in Council with Bill again sent up 274
Council Message returning Bill considered on subsequent day 274
Procedure and various ways of dealing with Council's requirements 274, 275
Money Bill—Council amends verbally only 275
Instance of Council's Amendment inserting a money clause agreed to, and proceedings subsequently rescinded and new Bill introduced 275
House refuses an Amendment to a Money Bill 275, 276
Present practice—Council makes suggestions 276
Instances of suggestions of Amendments 276
Procedure on suggestions 276
Expedition in cases of emergency 276
Suggestions accepted, Bill recast to conform thereto—Procedure .. 276, 277
Suggestions declined—Procedure 277
Amendments to reasons 277
Suggestions not insisted on and Bill returned 277
Insistence in Council and Bill laid aside there..... 277
Precedent of Loan Bill, 1878 277
House retraces proceedings and finally accepts suggestions 277, 278
Bills coming the first time from Council 278
Bill improperly originating in Council 278
Instance—Claimant's Relief Bill 278
Certificate when returned to Council..... 278
Form of Schedule of Assembly's Amendments to Bill 279
Procedure on Amendments to Council's Bills 279
Various modes of dealing by Council with Amendments made by House 279
Council's Message when considered 279
Message to Council 279
Schedule of further Amendments on Council's Amendments..... 279

Page.
Committee for reasons 279
No reasons where disagreement and insistence only 280
Object of reasons 280
Presentation to Governor 280
Standing Order relative to certificate on Bill passed and presentation by Speaker to Governor 280
Amendments by Governor 280
Procedure on Governor's Amendments 280
Cases of infringement of Standing Order 280, 281
Scope of Governor's Amendments 281
Reasons for Amendments assigned 281
Instances—Bonds Bill, 1861, Real Property Act Amendment Bill, 1861 281-283
Procedure in Committee on Governor's Amendments 283
Report and Message to Council 283
Amendments disagreed with, Message to Council 283
Bill altered to conform with Amendments 283
Bill returned by Council with Governor's Amendments amended .. 283
Procedure 283
Consideration of Governor's Amendments to a Council Bill 284
Precedents 284
Procedure in cases cited 284
Further Amendments by Governor 284
Assent by Governor 284
Numbering of Acts 285
Governor's assent—When given 285
Procedure when House summoned to hear assent to Bills 285
Assent during Session 285
Certain Bills presented at bar by Speaker 285
Assent or reservation sometimes notified by Message 285
Gazette Proclamation of Queen's Assent 285
Regulations of Her Majesty's Colonial Service on the powers and duties of Governors in respect of Bills 285-287
Bills amending Constitution reserved 287
Instance of omission to present a Bill to Governor 287
Same Question—Rule applicable to Bills 288
Regulation to revive a Bill 288
Instance—Stamps Bill, 1875 288
Motion for Bill rejected—Substantially identical one not entertained 288
Part of Bill omitted, separate Bill to revive same 288
Bill introduced in conformity with Amendments of Council 288
Same practice where Bill infringes Privileges 288-289
Rule of same Question not applicable to different stages of a Bill .. 289
Amendments by Council of a nature which leaves House no alternative but to lay aside or object 289
Instances of Bills so amended 289

Page.
Identical Bills 289
Introduction of a second Bill with a view to discharge a first Bill .. 290
Two Bills on same subject 290
Case of Totalisator Bills, 1882, and ruling of Mr. Speaker Ross .. 290-292
Private Member seeking to introduce Bill appropriating Revenue .. 292
Case of Port Augusta Railway Bill, 1869-70 292
Revival of Temporary Act 292
Act again dealt with same Session..... 292

INSTRUCTIONS TO COMMITTEES—

Committees bound by the Order of Reference 293
Object of an Instruction 293
Notice of Instruction 293
Nature and Limits of Instruction 293, 294
Time for moving an Instruction..... 294
Instructions are substantive Motions and not Amendments 294
Reasons why Instructions should not be moved as Amendments 294
Standing Order not prohibitory 294
Instructions cannot be moved on Committee resuming where progress reported 294
Progress not applicable to Supply and Ways and Means 294
Time for moving Instructions founded upon resolutions of Committees of the whole 294
Precedents of irregular procedure on Instructions 295
Standard Instruction to Bill Committees 295
Standing Order indicating how Committees are to amend Bills 295
Instruction to enable Committee to make Amendments in Bill not otherwise competent 295
Instruction cannot evade Rules of House 295, 296
No limit to number of Instructions 296
Amendments to Instructions 296
Limits to Amendments 296
Instructions to Select Committees 296
Time for moving Instructions to Select Committees 296

PRIVATE BILLS—

Definition of a Private Bill..... 297
Practice in respect of Private Bills 297
Petition by suitors to the Bill..... 297
Guarantee of expenses..... 297
Standing Order relating to Private Bills received first from Council.. 297
Private Bills as a rule introduced in Council 297
Fees on Private Bills brought from Council..... 298
Practice, when introduced in House 298
Time for lodging plans and book of reference 298
Lodging Petition 298

Page.
Other documents required to be deposited with Clerk of Assembly .. 298
Copies of Estimates of Expenditure, &c., to be lodged with Clerk .. 298
Estimate and cautionary deposit 298, 299
Clerk's certificate as to compliance with Standing Orders 299
Standing Orders relative to Petitions against a Bill 299, 300
Members interested not to vote 300
Time for presenting Petition (Standing Order 44) 300
Form of Petition (Standing Order 45) 300
Bill to be printed and circulated, and expenses guaranteed (Standing Order 46) 300
First reading and reference to Select Committee (Standing Order 47) 301
Duties of Select Committee (Standing Order 48)..... 301
Proceedings subsequent to Report of Select Committee (Standing Order 49) 301
Restriction on second reading of Private Bills 301
Affecting Crown or Government property (Standing Order 50)..... 301
Time between Report of Select Committee and second reading (Standing Order 51)..... 301
Report and consideration, time between; and Chairman's certificate (Standing Order 52) 301
Fees, how dealt with (Standing Order 56) 302
Fees on Private Bills received from Council 302
Certain Bills of the nature of Private Bills deemed public..... 302
Promoters of Hybrid Bills required to give the ordinary Notices compulsory on the promoters of Private Bills..... 302

DEBATE—

Standing Orders governing debate..... 303
Matters prescribed by Standing Orders 303
No debate without a Question..... 303
Exceptions—Questions to Ministers and Members, and personal explanations 303
Members' attitude in addressing the Chair 303
Exception in case of infirmity 303
Speaking with doors locked for division 303
The Speaker, not House addressed 304
Speech not to be read 304
Member not to be interrupted 304
Except for special purposes..... 304
When the Speaker rises (Standing Order 142)..... 304
When the Speaker puts a Question (Standing Order 143) 304
Debate not to be interrupted by noise (Standing Order 156) 304
Time for debate to begin..... 304
Member may speak till Question fully put 304
Speaker decides which of two Members speaks 304
Motion—That a Member be heard..... 305

	Page.
Instance	305
Instance of a Motion, that a Member, who had spoken, be now heard	305
Motion to prevent a Member speaking (case of Mr. O'Donnell, House of Commons)	305
When no Question before House (Standing Order 123)	305
Motion for irregular adjournment to debate urgent matter	305, 306
Exceptions to rule of no Question, no debate	306
No debatable matter in Questions or answers	306
Limitations in putting and answering Questions	306
Where Character involved	306
Personal explanation	306, 307
Latitude in explanations	307
Limitation	307
Reference to past debate	307
Reference to another Member	307
General discussion not allowed	307
Explanation confined to Members directly concerned	307
Reference to "another place"	307
Time for explanation	307
Explanation not to interrupt Member speaking	307
Explanation accepted	307, 308
Standing Orders on debate	308
Member to speak to Question (Standing Order 125)	308
Member not to speak twice (Standing Order 126)	308
Except to explain words (Standing Order 127)	308
Or to reply in certain cases (Standing Order 128)	308
Reply at close of adjourned debate on a Motion (Standing Order 129)	308
The Speaker to prevent a Member speaking twice (Standing Order 130)	308
Member only to speak once, except when right of reply	309
Second speech under special circumstances	309
Member who has spoken cannot speak to or move Amendments	309
Order and Privilege, Members speaking to	309
New Question	309
Difference between practice of House of Assembly and House of Commons	309
Member can speak when new Question proposed	309
Debate adjourned	310
Motion to adjourn negatived—Effect on mover and seconder	310
Pre-audience on resumption	310
Right waived	310
Adjournment to suit convenience moved by Member while speaking	310
Analogous practice in House of Commons under the quarter to six rule	310
Effect on debate if House counted out or adjourned	310
Revival of debate interrupted	310
Motion to divide	310
Motion to divide lost	310

Page.
Renewal of such Motion 310
Debate closed by reply 311
Restraints on discussion 311
Relevancy in discussion 311
Member digressing cautioned 311
Repetition an infringement of the rules of debate 311
Power of Speaker in Imperial Parliament over Member digressing .. 311
Anticipating discussion 311, 312
Restrictions imposed by Standing Orders 312
Debates of same Session not to be alluded to (Standing Order 131) .. 312
Reference to past debates 312
Reference by way of illustration 312
Reference to speech in Committee 312
Debate on Bills 312
Reference when moving to rescind a resolution 312
Special cases justifying reference 312
Instance, 1870 313
Reports of speech of same Session not to be read (Standing Order 132) 313
Extracts referring to debates not to be read (Standing Order 133) .. 313
Publication, a breach of Privilege, theoretically 313
Reflections upon votes of the House (Standing Order 134) 313
Reflection upon a vote passed 313
Allusion to debate in other House (Standing Order 135) 313
Object of rule 313
Evasion of rule and relaxation 313, 314
Rule based on unwritten law in Imperial Parliament 314
House only cognizant of official matters in Council 314
Irreverent use of the Queen's name (Standing Order 136) 314
Governor's name not used to influence debate 314
Offensive words against either House (Standing Order 137) 314
Object of rule in respect of both Houses or the House 314
And in respect of statutes 314
No Member to be referred to by name (Standing Order 138) 314
Offensive words against a Member (Standing Order 139) 315
Personal reflections on Members (Standing Order 140) 315
Ministers referred to by office; former Members referred to by name 315
Objectionable language to a Member 315
Instances of unparliamentary language from "Denison's" and "Brand's Decisions," ruled to be irregular and not permitted in debate 315-318
Withdrawal of objectionable words 318
Instance of words ("paid adherent") objected to, and procedure 319
Words objected to, taken down (Standing Order 151) 319, 320
Immediate objection must be taken (Standing Order 153) 320
Objection must be to definite expression 320
Member not explaining or retracting (Standing Order 154) 320

Page.

Member to withdraw while conduct under debate (Standing Order 157) 320
Charge made against Member (Standing Order 158) 320
Jurisdiction of House over conduct in lobbies 320
Complaint of language used in lobbies and Procedure thereon 321
General charges against public functionaries and classes of persons .. 321
Speaking to "Order" or "Privilege" 321
Precedence of Question of Order or Privilege 321
Proceedings on Question of Order 321
Objection to Speaker's Ruling 321
Order preserved by Speaker 321, 322
Speaker's attention called to breach of "Order" 322
Final authority vested in House 322
Speaking to Order during division 322
Decision on point of Order arising during a division 322
Speaking when doors locked for division 322
Documents quoted in debate 322
Rule applies to Official documents 322
Certain papers not treated as official documents coming under rule .. 322
Information referred to without citing documents 322
Public interest accepted as reason for not demanding production of documents quoted 323
Private Members, according to practice of House of Commons, not subject to rule of producing documents quoted 323
Production of documents quoted moved for 323
Documents quoted produced without Motion 323
Instances of Motion to produce documents 323
Instances of documents produced without such Motion 323
Procedure by Motion preferable 323
Latitude of debate on Motion for Supply, or Ways and Means' Committees 324
Relevancy not enforced 324
Limitation on such debate to save rights of fundamental rules 324
Business past or future not to be discussed 324
House not to anticipate work of Committee 324
General statement and debate on a division of the Estimates 324
Rule of debate on particular items 324
Debate on Bills 325
Leave to introduce 325
Motion for Committee to prepare Bill 325
First Reading—No debate or Amendment 325
Second Reading—Merits and principles of Bill debated 325
Debate on second reading not to anticipate details proper for Committee 325
Reference to kindred Bill 325
Debate on fixing time for resuming adjourned debate, Restriction on 325, 326

Page.

Revival of Question for second reading, when House has negatived "Now" reading a Bill a second time 326
Renewal of debate under Motion revived 326
Debate on Motion to discharge second reading 326
Debate on Committee Motion 326
Revival of Committee Motion, previously negatived, and renewal of debate 326
Discharge of Committee Motion and debate 326
Debate in Committee 326
Question put antecedent to debate 326
Debate on postponement of a clause 326
Progress reported, debate on motion for leave to sit again 327
Instruction to Committee—No reply to mover 327
Objection offered to Instruction 327
Debate on time for consideration of Bill as amended 327
Debate on recommittal 327
Debate on third reading 327
Debate on Question "That Bill do pass, &c." 327
Council's Amendments, debate 327
Appropriation Bill, debate 327
Order in Committee 327
Standing Orders governing debate and order in Committee 328

PRIVILEGE—

Question of Privilege 329
Unsatisfactory position of Privilege 329
Necessity of Privilege 329
Privileges common to both Houses 329
Privileges of Members 329
Privileges of Legislature of South Australia defined by Privilege Act, 1872 329
Privilege Act, clauses 1, 2, 3, quoted 329, 330
Privileges of House of Commons, Necessity of ascertaining 330
Derivation of Privileges 330
Declaration of Parliament proof of Privilege 330
New Privileges cannot be created 330
Resolution of 1704 against creation of new Privileges 330
Privileges of House of Commons 330
Power of commitment 331
Courts of Law not to inquire into grounds of judgment 331
Commitment only for matters within jurisdiction of House 331
Breach of Privilege 331
Classification of Breaches of Privilege 331
Freedom of speech 331
The Bill of Rights, ninth article quoted 331
Separate publication of speech cannot claim Privilege 331

Page.
Freedom from arrest 332
Freedom confirmed by Statute 332
Duration of Freedom Privilege 332
Freedom Privilege limited to civil cases 332
Subpœnas not resisted 332
Authority of House required to permit its officers to answer subpœna to give official evidence or produce official documents 332
Members exempt from juries 332
Privilege freedom enjoyed by officers of the House in immediate attendance upon House 332
Privilege freedom applied to witnesses, suitors, and counsel, in respect of statement to House or Committees 332
Jurisdiction of Courts in matters of Privilege 332
"May" on Privilege 333
Certain Privileges of the nature of rights in respect of Money Bills . 333
House refuses right of Council to amend Money Bills 333
Amendments of Council agreed to with special entry, saving rights of House 333
Instances 333
Amendments disagreed to as infringing right of House 333
Instances 333
Practice of suggestions to Money Bills 333
Procedure in respect of Money Bills (viz., Parliamentary Paper, being Return to Order of the House of June 12th, 1877, being copies of Resolutions, &c., *re* mode of procedure in respect of Money Bills) 333-349
Few Privilege cases recorded 349
Instances—Petition commenting on a Member's speech 349, 350
Publication of Draft Report of a Select Committee 350
Letter sent to a Member 350
Newspaper articles 350-351
Urgency essential to entitle a Privilege Question to precedence 351

Appendix 352

THE CONSTITUTION OF PARLIAMENT.

Parliament, how created.

The Parliament of South Australia was created by Statute.

By 13 & 14 Victoriæ, cap. 59, clause 32, power was given to the Governor and Legislative Council established under this Act to alter the Constitution of the Council, and to establish separate Legislative Houses, in whom should be vested the powers and functions of the Council for which the same should be substituted. It was provided that any Bill for such purpose should be reserved for the signification of Her Majesty's Pleasure thereon; and a copy thereof should be laid before both Houses of Parliament, for thirty days at least before Her Majesty's Pleasure thereon should be signified.

Constitution Act.

In virtue of this was passed Act No. 2 of 1855-6, an Act to establish a Constitution for South Australia, and to grant a Civil List to Her Majesty, which was reserved January 4th, 1856; received Her Majesty's assent June 24th; was transmitted by the Secretary of State to the Governor, under cover of a Despatch, dated July 19th, 1856; was received October 24th; and was published, by Proclamation by the Governor, in the *Government Gazette Extraordinary* of October 25th, 1856.

Two Houses.

This Act, known as the Constitution Act, created "a Legislative Council and a House of Assembly, "which shall be called 'The Parliament of South "'Australia.'" By clause 14 the number of Members of the House was fixed at thirty-six. By "The "Electoral Districts Act, No. 27 of 1872," the Queen's assent to which was proclaimed April 30th, 1873, the

Number of Members of House of Assembly.

number was increased to forty-six; and by "The Constitution Act Further Amendment Act, 1882," it was provided that the House of Assembly consist of fifty-two Members, representing twenty-six electoral districts.

As the object of this work is to set forth the practice and procedure of the House in the conduct of its business, constitutional points and questions will be studiously avoided, except so far as they have a direct bearing upon the work of the House. But it may be interesting to note that the present Constitution is far more in harmony with the practice observed in earlier times, respecting the establishment of systems of civil government in the colonial dependencies of the British Crown, than that which it superseded. Until the commencement of the nineteenth century, there prevailed in those ancient possessions of the Crown which at present form so large a part of the United States, and in all the other British Colonies, the almost invariable usage of establishing a local legislature consisting of three estates—that is, of a Governor appointed by the Sovereign, of a Council nominated by the Sovereign, and of an Assembly elected by the people. But during the nineteenth century in none of the acquisitions by the Crown, by conquest, by cession, or occupation, was the old colonial polity of a Governor, Council, and Assembly introduced. Still, in sanctioning a departure from the general type or model of the earlier colonial constitutions, it was the practice of Parliament to recognise the ancient principle, and to record the purpose of resuming the former constitutional practice so soon as the time had arrived.*

* Note.—Cf. Report of Privy Council—Constitution of the Australian Colonies. 1849.

THE MEMBERS OF THE HOUSE OF ASSEMBLY.

Writs for the election of Members to serve in the House of Assembly are issued by the Governor or the Speaker of the House of Assembly, as the case may be. Issue of Writs.

After a dissolution, Writs for a new Parliament are issued by the Governor. After the election of a Speaker, and until the dissolution or other lawful determination of the Assembly, Writs to supply vacancies are issued by the Speaker under the Writs of Election Act, No. 15 of 1872. By Governor. By Speaker.

Vacancies are caused by :— Vacancies, how caused.

Voluntary resignation :

Accepting an office of profit :

Non-attendance for two consecutive months of any Session without permission entered upon the Journals :

Becoming a subject or citizen of a foreign power : Constitution Act, clause 25.

Becoming bankrupt or an insolvent debtor :

Becoming a public defaulter :

Being attainted of treason :

Being convicted of felony or any infamous crime :

Becoming of unsound mind :

Death :

Or by the judgment of the Court for the Trial of Disputed Returns. Electoral Act, No. 141, 1879, Part IV.

The principle of Parliamentary Law that a Member, after he is duly chosen, cannot relinquish his seat, is not recognised in the Constitution of South Australia. Nor is it necessary that a Member should take his seat before resigning. Thus, on May 31st, 1878, being the first day of a new Parliament, the Speaker notified to the House the resignation of Mr. Frank Skeffington Constitution Act, clause 23. Voluntary resignation.

Carroll, one of the Members elected for the District of Light at the general elections.

On August 27th, 1858, being the first day of Session, the Speaker reported the election and resignation of Mr. William Henry Maturin, one of the Members for the District of Light, who thus never took his seat. But in this instance an office of profit had been accepted subsequent to election and prior to the meeting of Parliament, and the seat thereby became vacant.

Cases of voluntary resignation are frequently recorded in the Journals of the House, and as a rule are accepted without question.

Resignation not accepted to prejudice of rights of petitioners.

But where other rights are involved, the House will not accept the resignation to the prejudice of such rights.

On March 31st, 1865, being the first day of a new Parliament, Mr. William Henry Trimmer, elected as one of the Members for the District of Noarlunga, having taken his seat and subscribed the oath of allegiance, resigned his seat on the same day in a letter to the Speaker, in the following words :—

" Sir—Having been returned to Parliament as Mem-
" ber for the District of Noarlunga by an informality
" in some of the voting-papers, I think it my duty to
" resign my seat, and I hereby tender my resignation."

Two Petitions were immediately presented praying the House to annul the election and to declare Mr. John Carr to be duly elected. Mr. Speaker informed the House that it was usual when a Member resigned to order the Speaker to issue a Writ for an election to fill the vacancy ; at the same time the resignation received could not affect the rights of the petitioners ; it would be for the House to consider whether they would declare the seat vacant or not when they had the report of the Court to be appointed by them. At a later period of the day the Treasurer moved that a vacancy had occurred by reason of the resignation of Mr. Trimmer, and that the Speaker be directed to issue a writ. But Mr. Speaker reiterated the opinion that Mr.

Trimmer's resignation could not take away Mr. Carr's right: and as Mr. Carr and the electors had petitioned the House with a view to having the question decided by the proper Court, the House ought not to take any action, beyond referring the matter, until they had the report of the Court.

The Petition was referred to the Court of Disputed Returns, who certified that Mr. Trimmer was not, and Mr. Carr was, duly elected. But Mr. Trimmer is entered on the Rolls of Parliament as ceasing to be a Member by resignation on March 31st, though, as has been shown, his resignation was not accepted.

Constitution Act, clause 17. Office of profit.

The acceptance of any office of profit or pension from the Crown during pleasure, except those offices required to be held by Members of Parliament, renders the seat *ipso facto* void.

Resignation by letter on accepting.

It has been the custom for a Member accepting such an office as would render him incapable of sitting, to intimate the same by letter to Mr. Speaker, and to tender his resignation.

The following instances will suffice:—On August 27th, 1858, letters of resignation were reported to the House from Mr. W. H. Maturin and Mr. R. R. Torrens, the former having been appointed a Lands Titles Commissioner under the Real Property Act, and the latter Registrar-General. By letter dated September 3rd, 1859, two days subsequent to prorogation, Mr. M. Macdermott resigned his seat, and on October 1st Mr. E. J. Peake resigned.

Gazette notice of appointment to office.

But on September 29th, 1865, being the first day of Session, the Speaker drew the attention of the House to a notice dated September 21st, 1865, appearing in the *South Australian Government Gazette*, of the appointment of Mr. Francis Stacker Dutton, to be Agent-General for this province, and to the 17th clause of the Constitution Act, which he read, whereupon the seat was declared vacant on motion.

Question of vacancy in certain cases

On August 25th, 1857, Mr. Hanson called the attention of the Speaker to the fact that a stranger was in

of acceptance of office decided by House.

the House. By a notice in the *Gazette* he saw that Mr. Bagot had been appointed Solicitor-General without salary, which, however, did not prevent the office being one of profit, and he argued that Mr. Bagot's seat was vacant under the Constitution Act. Mr. Speaker considered that Mr. Bagot had rendered his seat vacant, but it was for the House to declare it. The debate was adjourned, but never resumed; a change of Ministry taking place on a vote of want of confidence in the interim.

On April 30th, 1861, Mr. Townsend called Mr. Speaker's attention to the presence of a stranger in the House, Mr. Hanson, who had accepted an appointment and received fees under Government as a member of the Real Property Act Commission.

The question was fully debated, it being argued on the other side that the performance of duties on a paid Commission for a specific purpose did not come within the meaning of the Act, and it was not an office during pleasure.

The issue was practically shelved by carrying the previous question.

And by Select Committee.

On July 18th, 1867, the House, on motion of Mr. Strangways, carried a resolution that the office of agent for the Commissioner of Railways is an office of profit within the meaning of clause 17 of the Constitution Act, No. 2 of 1855-6.

On the following day Mr. Strangways moved that the seat of Mr. John Rounsevell was vacant by reason of the acceptance of the office of agent for the Commissioner of Railways. The motion was debated and withdrawn, and the question referred to a Select Committee. The Committee reported that the terms of the agreement did not confer an office, and even assuming an office, it was one which continued in force for three years, and was not determinable at the pleasure of the Crown. No further action was taken.

Contractors in Parliament Act, No. 19, 1869-70.

To further carry out the spirit of the 17th clause of the Constitution Act, a very stringent Act was passed

in 1869-70, disqualifying Government contractors from being elected or sitting during the time they hold or enjoy such contracts. The Act does not extend to incorporated trading companies, contracts by descent or succession, or contributors to public loans or bondholders.

A penalty of £500 is attached to any person so disqualified who shall sit or vote as a member of either House.

> The theory is that a Government contractor is liable to the influence of his employers. The Act is based upon Act 22, Geo. III., c. 45, which, however, is far more stringent. To avoid doubts as to the above-cited Act of Geo. III. applying to contractors for Government loans, in all Acts since passed for raising loans a clause is introduced providing that the Act of Geo. III. shall not extend to any subscriber or contributor to the loan.

An April 23rd, 1872, the House ordered an opinion from the Crown Solicitor as to the question affecting Messrs. Barrow, Derrington, and Ward, relating to their supposed breach of the Contractors Act, for Government advertisements appearing in their papers.

Advertisements in newspapers of which Members are proprietors decided by the House not a violation of the Act.

On May 7th the Return to the Order of the House was laid on the Table, read, and ordered to be printed. The Crown Solicitor's opinion was to the effect that, Government advertisements having appeared in certain newspapers, of which these gentlemen were the proprietors, printers, and publishers, at the request of a duly authorised Government agent, each of the gentlemen had forfeited his seat under the second section of the Act. Thereupon Mr. Boucaut moved that the seat of Mr. Barrow was vacant (he having accepted a contract with Government). An amendment was moved for a Select Committee to inquire into the question as affecting the three gentlemen, but the original motion and amendment were alike lost, and a further amendment moved and carried "That, in the "opinion of this House, the seats of the Hon. John "Henry Barrow, Ebenezer Ward, and Edwin Henry "Derrington are not vacated by reason of the adver-

" tisements referred to in the opinion of the Crown " Solicitor, inasmuch as such advertisements are not " agreements or contracts within the spirit of the Con- " tractors in Parliament Act, No. 19 of 1869-70."

Vacancy by non-attendance. Leave required.

Every Member is under a constitutional obligation to attend the service of the House. If he desires to absent himself, the leave of the House must be obtained. If a Member fail to give his attendance for two consecutive months, without the leave of the House entered upon its Journals, his seat thereby becomes vacant.

Attendance roll.

On May 8th, 1857, the Speaker announced to the House that he had issued instructions for a daily list being made of Members present or absent, in consequence of the provisions of the Constitution Act. This roll is kept by the Clerks at the Table, and forms the concluding paragraph of each day's Journal.

Case of Mr. J Hart.

On August 23rd, 1859, Mr. Speaker called the attention of the House to the Members' attendance record, whereby it appeared that Mr. John Hart, one of the Members for Port Adelaide, had been absent from the House without leave for a period exceeding two consecutive months, and that his seat had become vacant in consequence under the twenty-fifth clause of the Constitution Act.

As this was at the close of the last Session of the Parliament, no further action was taken by the House.

Case of Mr. Bean.

On January 20th, 1870, Mr. Speaker made a similar announcement with regard to Mr. Bean, one of the Members for West Torrens; and on the following day the House resolved that a vacancy had occurred, and ordered the issue of a Writ to supply such vacancy.

Leave granted.

Leave of absence is readily granted, and a motion for leave is regarded as so formal a matter, and not likely to involve discussion, that it is placed at the head of the notices. But on November 23rd, 1869, a motion for leave of absence became a subject of debate, which was adjourned to a later day, and ultimately the motion was negatived on a division; the Member

Leave of absence refused.

being the one last referred to whose seat became vacant.

Obligation to take seat without delay.

A Member should attend the service of the House and take the customary oath and his seat as soon as may be, as after the return of a Writ is reported to the House, the Member failing to attend is recorded as absent. Thus, on February 27th, 1863, the first day of the meeting of that Parliament, Mr. Barritt was reported in the return to the Writ for Barossa as duly elected, and failing to attend was recorded as absent up to March 12th. On that day the House adjourned till April 9th, when one month's leave of absence was moved for and granted.

Vacancy by insolvency. *Gazette* notice

In a case of insolvency the *Gazette* notice will justify the Speaker in ascertaining the identity of the person in question, and if a Member of the House, Mr. Speaker will make his report accordingly as to the vacancy.

Vacancy by death: Certificate.

In the case of death, a certificate from the Registrar-General of Deaths is forwarded to Mr. Speaker, who reports to the House.

Certificate not always to be obtained.

In 1880, during Recess, the Speaker, Sir G. S. Kingston, died beyond the limits of the province. On the House meeting for a Special Session on January 4th, 1881, the Clerk, under the Standing Orders, reported a vacancy in the office of Speaker during Recess. From the nature of the circumstances no certificate was received.

Disputed Returns Court: constitution and appointment.

For the purpose of forming a Court for the trial of any complaints against the validity of any returns of Members to serve in the House of Assembly, the House, within one week of its first meeting, after every general election, elects four of its Members to be members of the Court. The junior or the sole acting Judge of the Supreme Court is the President of the Court.

In the event of the House not electing within the period named, the nomination devolves upon the Speaker.

Vacancies, how caused.

Vacancies in the Court may occur by incapacity to

attend, by reason of resignation, refusal to act, acceptance of office, sickness or death, or any impediment allowed by the Speaker; and such vacancy will be filled by the House, or, in default, by the Speaker.

Mode of election.

The Court is elected by ballot, and vacancies, as they occur, are filled by ballot. Should there be a tie between two Members, the Speaker decides by lot. Objection has been taken to this—that every new Member must be voted for by the House, or nominated by the Speaker; and that, in a case of a tie, a second vote should be taken. But there is no provision in the Act with regard to ties, and the custom of lot is invariably followed when the ballot for a Select Committee results in a similar way.

Ministers incapable of acting.

It is held that, under the provisions of the Electoral Act, a Member of the Ministry cannot be a Member of the Court. In 1865, Mr. Duffield, on becoming Treasurer, did not resign as a Member of the Court. But on a Petition being presented—in the matter of the representation of Light—the Hon. A. Blyth reminded the House that both himself and Mr. Hay had resigned their positions on taking office, whereupon Mr. Duffield at once resigned. On September 25th, 1868, Mr. Speaker called the attention of the House to the fact that three of the Members of the new Ministry were Members of the Court. and that, in his opinion, a Member entering the Ministry was, under the provisions of the Electoral Act, incapable of sitting in the Court. The three Members at once tendered their resignations, the House affirming, in the motion to elect members to fill their vacancies, that they "were incapacitated from "attending by reason of acceptance of office."

Record in Journals of the House.

The appointment and constitution of the Court is duly recorded in the Journals of the House by the Clerk, and proof of such entry is sufficient authority for the constitution of the Court.

Initiation of procedure.

In the matter of controverted elections, procedure for the trial is initiated by Petition to the House. The Petition must be from a candidate at the election or

from not less than one-tenth of the electors on the roll duly qualified. It must be presented within twenty-one days of the election, or one week from the meeting of Parliament which shall last happen. If the House shall have adjourned and not again met before the expiration of the said periods of seven or twenty-one days, then such Petition may be presented not later than the second sitting day after the next meeting of the House. A deposit of fifty pounds must be lodged with the Speaker, and the signature of each petitioner attested by two witnesses. If the above conditions are not complied with, the House will neither notice the Petition nor take proceedings thereon.

Petition: Limit of time.

Deposit.

Doubts have arisen whether it is the duty of the House to inquire into the authenticity of the signatures of the petitioners before referring the petition to the Court. On November 2nd, 1865, a Petition was presented from 215 electors of the District of Light against the return of the sitting Member, Mr. Rounsevell, which petition it was at once moved be referred to the Court of Disputed Returns, to meet on November 6th.

Signatures, authenticity of.

On November 14th, a Petition was presented to the House by Mr. Strangways from S. J. Way, praying for inquiry as to the mode in which the Petition had been signed, and as to the time within which such Petition was presented to the House; and also that the Court for the Trial of Disputed Returns be certified that the House referred the said Petition to the said Court without prejudice to the rights of John Rounsevell, Esquire, the sitting Member for the said district, and for other purposes.

As a matter of privilege, affecting every Member of the House, Mr. Strangways moved a motion to the effect that the House, in referring the Petition to the Court, remitted also to the Court the question of compliance with the Standing Orders and the Electoral Act, that the House had not made any such inquiry, considering it a matter for the Court. The motion

was debated at some length, and subsequently amended by leave as follows :—

Not inquired into by the House.

" That Mr. Speaker do certify to the President of the " Court of Disputed Returns, that when the Petition " against the return of John Rounsevell was referred to " the said Court, it was also referred to the said Court " to inquire and find whether the signatures attached to " the petition were those of persons who either voted " or were qualified to have voted at the said election, " amounting to not less than one-tenth of the whole " number on the roll of electors, and signed in accor- " dance with the ninety-first Standing Order."

This motion was negatived, and the following carried :—" That Mr. Speaker certify to the Court for the " Trial of Disputed Returns, that this House made no " inquiry into the authenticity of the signatures of the " electors of Light against the return of John Rounse- " vell, Esquire, or into the allegations of such Petition."

When the Petition was originally presented, Mr. Strangways raised the point as to whether it could be received, the day of presenting being the twenty-first day from the election; and as to the signatures. Mr. Speaker considered the question as to time to be one for the Court. It was argued that, as the election had not taken place till five o'clock on October 12th, the twenty-one days had not elapsed at the time of presentation on November 2nd, and this view was acquiesced in.

In the debate on the motion of Mr. Strangways there was a difference of opinion. On the one side it was contended that all the House had to inquire into was the question of the time of presenting, and that the question of the genuineness of the signatures was proper for the Court. On the other side it was argued that the interval of ten days between presentation and reference was designed to afford time to the House to satisfy itself that all the preliminary conditions had been fulfilled.

The resolution affirming that the House had made

no inquiry into the authenticity of the signatures, though only stating a matter of fact, has practically guided subsequent procedure.

On September 25th, 1868, in the matter of the Petition against the return of Mr. John Dunn, the question was again brought before the House by Mr. Strangways, who alleged that, in the matter of the Petition against Mr. John Rousevell, the Court presided over by Mr. Justice Gwynne had decided that it had no power to inquire into the genuineness of the signatures unless that inquiry had been specially remitted to it by the House. A resolution identical with that of November 14th, 1865, was passed.

Clause 97 of the Electoral Act provides that "such "Court shall inquire whether or not such Petition is "duly and properly signed"; and in the case of the Petition against Mr. G. S. Kingston, in 1861, the Court inquired into the signatures.

Forged or fraudulent signatures.

Should there be proof that forged and fraudulent signatures had been attached to an election Petition, the House will take further action. In the case just cited, a Select Committee was appointed to take evidence and report on the signatures, and they came to the conclusion that, with a view to comply with the forms of the House, fraud and forgery had been committed.

An attempt was subsequently made to pass a resolution ordering the Attorney-General to prosecute one of the witnesses examined by the Committee for forgery, and to bring the other witnesses to the Bar of the House to be reprimanded, but the House was counted out on the motion.

Election petitions.

When a Petition is presented in the matter of a controverted election, it is usual to move that it be received and read. But the reading of the Petition is not necessary, nor is it the invariable custom. Thus, on July 31st, 1868, Mr. Strangways presented a Petition from J. Dunn, Esquire, against the return of William Rogers; and Mr. Neales, from electors of the district

Presentation, &c., reading.

for which Mr. Rogers was returned; neither of which were read. The next stage of the procedure is to move that the Petition be referred to the Court for the Trial of Disputed Returns, and that the Court meet on a specified day, to consider and inquire into the allegations contained in the Petition. Or the Court may simply be ordered to meet within the number of days prescribed by the Electoral Act, leaving it to the convenience of the Court to fix the most convenient date. Section 97 of the Act enacts that the Petition must be referred to the Court within ten days after the same has been duly received by the House. It is usual for the Member presenting the Petition to move the reference to the Court, and the date for the meeting of the Court; and to include both questions in one motion, which usually follows immediately after the presentation of the Petition. But the rule is not invariable. Thus, on June 4th, 1857, Mr. Milne presented a Petition from William Bakewell, against the return of Mr. Horace Dean, which being received and read, Mr. Mildred moved it be referred to the Court. But it was not until June 9th, and on the motion of the Attorney-General, that the Court was summoned to meet on a date specified. Again, on May 11th, 1875, Mr. Hardy presented a Petition from Richard Chaffey Baker, against the return of Mr. Sudholz, and, in due course, moved that it be referred to the Court. But the order and date of the meeting of the Court was moved separately by the Chief Secretary. On the same day, Mr Kay presented a Petition in the matter of the election for Wallaroo, and moved it be referred to the Court. But the former order for the meeting of the Court rendered a further order unnecessary.

Referred to Disputed Returns Court

Order for Court to meet and date.

Petitioners' deposit.

A deposit of £50 must be lodged with the Speaker by the petitioner or petitioners, otherwise it is provided by section 96 of the Electoral Act that no Petition shall be noticed nor any proceedings had thereon. This deposit should be made before the presentation of the Petition. But it appears that, on

March 31st, 1865, Mr. Sutherland presented an election Petition from electors of the District of Noarlunga, as also one from Mr. John Carr, a candidate at the election, both which were received and read, and ordered to be referred to the Court. On April 4th, Mr. Speaker read a letter from the Clerk to the effect that he had forwarded the Petition of Mr. Carr to the President of the Court, having received the deposit prior to the presentation of the Petition, but had retained the Petition of the electors, as no deposit had been made. On November 2nd. 1865, Mr. Speaker informed the House, in the matter of the Petition from electors in the District of Light, that he had taken care to inquire before the Petition was presented, and had ascertained that the sum of £50 required by the Act was deposited with the Clerk.

Procedure on meeting.

When the Court meets in compliance with the order of the House convening such meeting, the President administers to each Member the oath or affirmation provided by the Act, and then takes it himself, any Member of the Court administering.

Oath.

Nature of oath.

The oath binds Members to decide according to the principles of good faith and equity; and section 92 ordains that the Members shall be guided by the real justice and good conscience of the case without regard to legal forms.

Minutes kept.

An officer of the House attends the Court, which is an open Court, and makes a minute of all the proceedings.

Limit of adjournment.

The Court may adjourn from to time, provided the interval of adjournment shall not exceed four days.

Judgment, when given.

Judgment must be given within five sitting days, unless extension of time is granted by the House.

Extension of time.

Thus, on October 6th, 1868, Mr. Carr moved that the Court have leave to extend their sittings beyond the period of five sitting days, and to adjourn from time to time, as may be necessary, until the 14th October; and a similar motion was made on May 18th, 1875; and on June 9th, and again on June 23rd, 1881, similar motions were carried.

Decision by Court or President.

If no decision be adopted by a majority of the Court within the time fixed by the Act, or the extended time granted by the House, the President is authorised to pronounce a decision.

No appeal.

There is no appeal from the judgment of the Court.

Reported to House.

The judgment is forwarded to Mr. Speaker by the President of the Court, and is reported by him to the House, and read by the Clerk.

Costs awarded.

The Court, besides pronouncing as to the election, awards costs.

Thus—

In the matter of William Bakewell, petitioner, the Court ordered the sitting Member whose election was pronounced void to pay the petitioner £50 for his reasonable costs and expenses. May 8th, 1857.

In the matter of William Bakewell, petitioner, and Horace Dean, respondent, the respondent was ordered to pay the petitioner £50. July 21st, 1857.

In the matter of the Petition of electors against the return of William Townsend for Onkaparinga, the return was pronounced "good and valid"; each party to pay their own costs. January 20th, 1858.

In the matter of the Petition against the return of Mr. Kingston, the Petition was dismissed, and £20 awarded to the sitting Member. May 30th, 1861.

In the matter of the Petition of John Carr, against the return of Mr. Trimmer, the sitting Member was unseated, and Mr. Carr declared duly elected, but no costs awarded. April 11th, 1865.

In the matter of the Petition of electors against the return of Mr. Rounsevell, the election was declared void, and £50 awarded to the petitioners. November 16th, 1865.

In the matter of the Petition of John Dunn against the return of John Cheriton and William Rogers, Esquires, the election was pronounced void. No costs awarded. August 12th, 1868.

In the matter of the Petition of certain electors against the return of John Dunn, Esquire, the Court

found that Mr. Dunn had been guilty of bribery through his agents, and declared his election void, and him disqualified from sitting until the next periodical or general election; and ordered Mr. Dunn to pay £150 to the petitioners.

In the matter of the Petition of William Rogers, Esquire, *in re* the District of Encounter Bay, the Court pronounced the election of the two sitting Members void. No costs were awarded. February 6th, 1872.

In the matter of the Petition of John Harry Haydon, Esquire, *in re* the election for the District of Wallaroo, the Court declared the election of Mr. Madge void, and ordered him to pay £50 to the petitioner.

In the matter of the Petition of Richard Chaffey Baker, Esquire, *in re* the election for the District of Barossa, the Court decided that Mr. Sudholz had been guilty of bribery, by his agents, and ordered him to pay the petitioner £120.

In the matter of the Petition of Wentworth Cavenagh, Esquire, *in re* the election for the District of Yatala, the Court found Mr. Murray guilty of bribery, by his agents, and ordered him to pay the petitioner the sum of £50.

When the judgment is reported and read to the House, the Speaker notifies that the minutes of the proceedings are laid before the House in pursuance of the Electoral Act.

Deposit returned.

If the decision of the Court is in favor of the petitioner, the House, on motion, orders the deposit to be returned to the petitioner without deduction.

Motions *re* seats are privileged.

Motions which have reference to the seats of Members and the Court of Disputed Returns can be made at any time, and without notice, as matters of privilege.

Vacancies, procedure to supply.

The causes of vacancies having been described, it will be most convenient here to set forth the procedure for supplying such vacancies as occur during the currency of the Parliament.

Prior to Act 15 of 1872.

Prior to the passing of the Writs of Election Act, No. 15 of 1872, the House, on motion, declared vacancies, and ordered Mr. Speaker to cause Writs to be issued to supply the same.

Subsequent to Act 15 of 1872.

Subsequent to the passing of the Act, it has been the most usual custom for the Speaker to report to the House that a vacancy has occurred, by resignation, by death, or by the judgment of the Court, or by reason of any other cause, as the case may be; and, further, that he has issued, or will issue, a writ to supply such vacancy, in pursuance of the provisions of the said Act.

Writs issued by Speaker direction vacancy.

Clause 5 enacts "Whenever, after any general elec-"tion of the House of Assembly, and before the "dissolution or other lawful determination of such "Assembly, any seat therein shall have become vacant, "a Writ for the election of a Member to serve in the "place so vacant shall be issued by the Speaker of the "said Assembly, under his hand and seal."

(In the event of there being no Speaker, and the House not being in Session, or if the Speaker is absent from South Australia, the Writ is issued by the Governor.)

Declaration by House not necessary.

This clause has been construed to mean that the Speaker can at once act without the vacancy being declared by the House.

The first vacancies occurred during the Recess before the Session of 1873, and Writs were issued by the Speaker in virtue of clause 3, which provides that if a Member resign his seat by writing, the seat becomes vacant; and the Speaker shall, if the House be not in Session, forthwith cause a Writ to be issued. But on

Exception: case of Mr. Reynolds.

August 28th, 1873, the House being in Session, and the Speaker reporting the resignation of the Hon. Thomas Reynolds, the Attorney-General moved that a vacancy has occurred, and that the Speaker do forthwith cause a Writ to be issued.

On September 16th, 1873, the Speaker reported the resignation of a seat, and that he had issued a Writ

to supply the vacancy. Thereupon Mr. Bray moved, "That the opinion of the Law Officers of the Crown "on the authority of the Speaker to issue a Writ on "the resignation of a Member of the House during "Session, without a resolution of the House declaring "such vacancy, be obtained and laid upon the Table of "this House."

Crown Law Officers' opinion on Speaker's right under Act.

In the course of the debate on this motion, Mr. Speaker said that, in the case of the resignation of the Hon. Thomas Reynolds, he had thought that the usual vote of the House affirming the vacancy was required, and he had sent to the Governor to issue a Writ; but that the Crown Solicitor had informed him that the Speaker alone had power to issue a Writ, and that the fifth clause of the Writs of Election Act was an Act of Parliament of itself.

In the Return to the Order of the House, the Law Officers were of opinion that, under clause 23 of the Constitution Act, and clause 3 of the Writs of Election Act, vacancy occurs "upon receipt of the resignation "by the Speaker"; and that clause 5 gave the Speaker power to issue a Writ without the condition of "a "resolution of the House," which is specially mentioned in the Constitution Act; it being clearly the intention of this clause to meet the case of vacancies during Session.

On September 24th a resolution was carried that it is inexpedient that the Speaker should issue Writs to supply vacancies during Session until the House has declared the vacancy, and that a Bill be introduced to amend the Writs of Election Act accordingly. But no further legislation has been effected, and the Act remains untouched.

Resolution re issue of Writs by Speaker.

Writs have since been issued under the Writs of Election Act by the Speaker for vacancies as they have occurred, and the propriety of the course has not been challenged.

Recognised practice.

One instance, however, demands attention. On June 28th, 1881, the Speaker reported the judgment of the

Exception. Case of Mr. Murray.

Court in the matter of the election of Mr. Murray. The election was pronounced absolutely void. Mr. Speaker informed the House that a vacancy had occurred, and that he, in pursuance of the provisions of section 98 of the Electoral Act, 1879, had caused a Writ to issue for supplying such vacancy.

Electoral Act.

In preceding cases where Members have been unseated by the Court, the Speaker has issued his Writ under the Writs of Election Act.

Illness of Speaker.

In the event of Mr. Speaker being disabled by illness from attending the House, he notifies by letter to the Deputy Speaker any vacancy which has occurred, and the issue of the Writ. This letter is reported by the Deputy Speaker to the House and read by the Clerk.

Issue of Writ.

Speaker absent:

Deputy Speaker appointed.

Standing Order No. 21 provides that, on the House being informed by the Clerk of the unavoidable absence of Mr. Speaker, the Chairman of Supply and Ways and Means shall perform the duties and exercise the authority of Speaker, in relation to all proceedings of the House, as Deputy Speaker, until the next meeting of the House; and so on, from day to day—"Provided that if the "House shall adjourn for more than twenty-four hours, "the Deputy Speaker shall continue to perform the "duties and exercise the authority of Speaker for "twenty-four hours only after such adjournment."

Powers of Deputy.

Doubts have arisen whether this confers on the Deputy Speaker power to execute any of the duties performed by the Speaker out of the Chair.

Duties outside the House.

It would appear by the action of Mr. Speaker, conveyed to the House in a letter to the Deputy Speaker, on July 20th, 1880, announcing a vacancy and the issue of a Writ, that the Speaker, though unable to attend the House, should, if in the province, and if able, perform the duties appertaining to him outside the House.

Imperial Parliament.

Deputy Speaker, power of.

In the Parliament of Great Britain, the matter has been dealt with by legislation. Act 18 & 19 Vict., c. 84, provides that, where a Deputy Speaker fills the Speaker's place, every Act done and proceeding taken in or by the House, pursuant to any Statute, shall be as valid as if the Speaker himself were in the Chair; and every act done by the Deputy Speaker shall have the same effect and validity as if it had been done by the Speaker.

Cases have arisen where a Member unseated by the Court has been again returned by his constituents. Thus Mr. Horace Dean, whose election was pronounced absolutely void by the Court on May 8th, 1857, was again elected on June 1st, and the return to the Writ reported to the House on June 3rd. Return of unseated Member.

On June 4th, a Petition against the return of Horace Dean was referred to the Court, and on July 21st, the judgment of the Court was reported to the House, declaring the election of Horace Dean void, and that the petitioner William Bakewell was duly elected Case of Mr. Dean.

In this instance no attempt was made by Mr. Dean to take the oath after his second election.

On June 28th, 1881, the Court pronounced Mr. David Murray, one of the sitting Members for the District of Yatala, to have been guilty of bribery by his agents with his consent, and his election void. Case of Mr. Murray.

On July 13th, 1881, Mr. Murray was again elected, and the return to the Writ reported to the House, July 19th.

Mr. Murray was introduced to the House, but Mr. Speaker calling attention to the Electoral Act of 1879, which provides that any Member found guilty of bribery by the Court shall be disqualified from sitting and voting in the said Parliament during the whole period that may intervene between the decision of the Court and the time of the next periodical or general election, declined to administer the oath to Mr. Murray until the decision of the House had been arrived at on the subject. Speaker declines to administer oath, pending decision by House.

The House appointed a Committee of Privilege to inquire and report on the matter of Mr. Murray in claiming to sit and vote in Parliament after the decision of the Court. Committee of Privilege.

The Committee brought up their report on July 27th, to the effect that in consequence of the decision of the Court, Mr. Murray was disqualified from sitting and voting as a Member of the present Parliament, and on the following day the House agreed to the report.

On August 18th, Mr. Speaker reported to the House the resignation of Mr. David Murray, and that he would issue a Writ to supply the vacancy.

Oath or affirmation to be taken.

No Member is qualified to sit or vote until he has taken and subscribed the oath of allegiance, or made affirmation.

Commission to swear to Judge.

On the opening of Parliament a Commission is issued to one of the Judges of the Supreme Court, under the hand and seal of the Governor, to administer the oath or receive the affirmation in lieu thereof. The Commissioner attends in the Assembly Chamber, accompanied by his Associate.

To Mr. Speaker.

A Commission is issued to Mr. Speaker to perform the same functions during the remainder of the Parliament.

Members absent.

Those Members who are not present on the first day are recorded as absent, the returns to the Writs having been reported to the House.

Introduction of a new Member.

If a Member be returned at other than a general election, he is introduced to the House by a Member, under Standing Order No. 19; though it is customary for the Member to approach the Table supported by two Members, and, after taking the oath, to be introduced by them to Mr. Speaker.

A Member seated on Petition need not be introduced.

Privileges of Members.

By the Privilege Act, No. 14 of 1872, the privileges of Members are defined to be identical with those held, enjoyed, and exercised by the Commons House of the Imperial Parliament, at the time of the passing of the Constitution Act, No. 2 of 1856.

> The extent of those privileges and their nature more properly belong to a work on the Constitution, and will not be attempted to be described in a treatise which deals simply with the actual work of the House.

Disabilities of Members.

The law of Parliament aims at guarding Members from all undue influences, direct or indirect, which might bias or prejudice their judgment and votes. Certain disabilities accordingly attach to Members in relation to the Business of the House.

Thus—

A Member cannot present a Petition from himself. As to Petitions.

He cannot practise as counsel before the House or any Committee.

He is debarred from advising as counsel upon any Private Bill or other proceeding in Parliament; nor should he be engaged, either by himself or any partner, in the management of Private Bills, before either House, for pecuniary reward. As to practice as counsel on Private Bills, &c.

On September 1st, 1864, on the Order of the Day being read for the consideration of the Report of the Committee of the whole House on the Adelaide Marine and Fire Assurance Company Bill, a motion was made to recommit the Bill, which was negatived, on division. Attention was shortly afterwards called to the fact that the Attorney-General had voted on the division, he having been counsel for the petitioners of the Bill, which was conducted by his partner before the Select Committee of the House on the Bill. Mr. Speaker decided that the name of the Attorney-General must be struck off the division list, which was done, and the division amended in accordance. Vote of Member, engaged as counsel on a Bill, struck off.

On October 11th, 1871, on the motion for fixing a day for the consideration of the Report of the Adelaide, Glenelg, and Suburban Railway Bill, it was brought to the notice of Mr. Speaker that the Attorney-General, who had taken part in the proceedings on the Bill, was solicitor to the undertaking. Mr. Speaker, with the concurrence of the House, took time to consider the point. On October 18th, Mr. Speaker quoted the practice as laid down in "May's Law and "Usage of Parliament," and stated that the same had always been observed in this House; and ruled that neither the Attorney-General nor any other practitioner of the Supreme Court, being a Member of the House, should advise as counsel on any Bill, Petition, or other matter to be brought before Parliament; nor should any such Member, by himself or his partner, be engaged in the management of Private Bills before Parliament. Law of Parliament *in re*.

Member competent to move and discuss question, though interested.

But, though the letter and spirit of the law of Parliament prohibit a Member voting on any question wherein he has a personal interest, there is no rule whereby a Member is restrained from making a motion or discussing a question on which he would not be entitled to vote. Thus, in the matter of the Adelaide, Marine, and Suburban Railway Bill, 1869, Mr. Baker stated that he had been employed on some business connected with it; but he spoke at length on the second reading, and took part in the proceedings in Committee, though he abstained from voting.

Disability to vote where interested.

Standing Order 200 provides that no Member shall be entitled to vote on a division upon a question in which he has a direct pecuniary interest; and the vote of any Member so interested shall be disallowed.

Exception, State policy, and common interest.

But it is obvious that if this rule was absolute and unqualified, the proceedings of the House would, in certain cases, be unduly fettered and embarrassed, to the detriment of State policy.

Accordingly, in the words of Mr. Speaker Abbot—
"The interest must be a direct pecuniary interest, and
"separately belonging to the persons whose votes were
"questioned, and not in common with the rest of His
"Majesty subjects, or on a matter of State policy."

Instance: "Assessment on Stock Bill," 1864.

On October 11th, 1864, on the "Assessment on "Stock Bill," a Member's vote was challenged, on the grounds that he had a direct personal interest in the passing of the Bill.

Votes allowed.

The question was adjourned to the next day, when the House decided, by a majority of sixteen to ten, that the vote be allowed—the ground being taken that it was a question of public interest and State policy; and this was the view which Mr. Speaker (Hawker) had expressed on the point being raised.

Waste Lands Leases, 1865, Resolutions.

A similar question came up again on December 21st, 1865. In Committee, on resolutions as to the Waste Lands Leases, Mr. Strangways challenged the right of certain members to vote, and the House resumed to hear Mr. Speaker.

Mr. Speaker (Kingston) ruled that votes, on resolution, might be struck off, on the ground that as it was contemplated to give pecuniary advantage to some of the pastoral lessees, those Members who had an interest in any of the pastoral leases included, had such a pecuniary interest as disentitled them to vote. Speaker's ruling.

The votes of two Members were struck off the division list on one of the resolutions. Votes disallowed.

When the Bill giving effect to the resolutions in Committee was before the House, Mr. Strangways, on January 30th, 1866, again appealed to Mr. Speaker as to the right of Members interested in leases named in the schedule of the Bill to vote on any stages thereof. Votes challenged on Bill.

Mr. Speaker took the same view as on the former occasion, whereupon a motion was made, "That this "House does not agree with the ruling of Mr. Speaker "on the question of the personal interest of Members." The matter was fully debated, and on February 6th, 1866, the House, by twenty to twelve, reversed the Speaker's ruling, on the ground that it was a public measure dealing with public policy. Speaker's ruling reversed by House.

Meanwhile, on February 2nd, 1866, in Committee on the question of free distillation, Mr. Speaker was appealed to as to the votes of Members who would be benefited by free distillation, and motion was made to strike off certain names. But it was carried, on division, by the Speaker's casting vote, "That this ques- "tion, being one relating to taxation, all Members "may vote upon it." Free distillation. Votes allowed as question of taxation.

On October 9th, 1867, Mr. Townsend called Mr. Speaker's attention to a vote of the House relative to free passes to Members, and asked if they were competent to vote on that question, having a direct pecuniary interest therein. Mr. Speaker ruled that in this case no matter of State policy was involved, nor had the rest of Her Majesty's subjects an interest in common with Members, and the votes might be disallowed. The question that certain votes be disal- Free passes to Members. Votes allowed by House.

lowed was debated on October 11th and 16th, and was negatived by twenty-two to four.

Free passes in mails.

On November 23rd, 1870, a motion was before the House for making provision in future mail contracts to provide free passes to Members, available during sitting of Parliament, and on the most direct road to and from the Member's residence and the city of Adelaide.

Votes challenged

The votes of five Members were challenged on the grounds of direct personal and pecuniary interest.

and struck off by division and casting vote.

The vote of the first Member named was disallowed on division, and the votes of two other Members allowed on division. In two of these divisions the Member interested voted against the question, and his name was struck off by Mr. Speaker; but the result was not affected thereby. On another division the Speaker gave a casting vote in favor of disallowing the Member's vote. The numbers of the original division on the resolution, which had been ten to eight, were now, by the disallowance of two votes, rendered equal, and Mr. Speaker gave a casting vote against the resolution.

Private Bills.

In the matter of a Private Bill there can be no question or doubt.

Thus, on October 11th, 1871, the votes of three Members were struck off the division list without motion, on a clause in Committee on the Adelaide, Glenelg, and Suburban Railway Bill, they having stated they were shareholders in the company.

THE BUSINESS OF THE HOUSE.

How governed.

The business of the House is governed by—

The Constitution Act:

Standing Rules and Orders:

Sessional Orders and Resolutions:

And by certain Acts, such as the Writs of Election Act and the Electoral Act, which provide for special business in certain cases.

Nature of business regulated by Constitution Act.

The Constitution Act provides for—

The initiation of certain Bills in the House:

The vacating of seats:

The election of a Speaker:

Provision for the absence of the Speaker:

The quorum of Members:

The casting vote of the presiding officer:

The oath or affirmation of Members:

Resignation of seats:

Vacating seats by non-attendance and other causes:

Issue of Writ to fill vacancies:

Power to make Standing Rules and Orders:

Power to the Governor to amend Bills:

Power to alter the Constitution Act, with limit as to the necessary majority:

The salaries of the Speaker and Chief Clerk, and provision for the removal of the latter, and of the salaries of the other officers:

Recommendation of the Governor as a necessary preliminary to money votes.

By Standing Orders.

The Standing Rules and Orders provide for the conduct of all the ordinary business which comes daily, or from time to time, before the House; as also for the extraordinary procedure on the opening of a new

Parliament, and the first day of meeting of an ordinary Session.

Duration of Standing Orders. Subject to alteration and suspension.

Standing Orders are of the nature of continual by-laws, and by the Constitution Act are binding and of force. They may be altered, varied, or repealed, and new ones may be made from time to time; or, in cases of urgent necessity, they may be suspended, with or without notice. If on notice, the suspension may be carried by a majority of voices; if without previous notice, the motion for their suspension requires an absolute majority of the whole Members of the House.

Procedure when to be altered, &c.

When it is deemed advisable to alter or add to the Standing Orders, the question is considered and discussed in Committee of the whole House. At the close of proceedings in Committee the Report is brought up and ordered to be considered on a future day. The Report is agreed to in the words "That the new "Standing Orders be now adopted"; and Mr. Speaker is directed by the House to lay the same before the Governor for his approval. In due course the Governor notifies to the House by message that he returns the copy of the Standing Orders laid before him by Mr. Speaker, to which he has affixed his approval in Executive Council.

The Standing Orders now in force are mainly the revised copy of the Standing Orders laid upon the table by Mr. Speaker July 30th, 1869, as amended by Committee of the whole. The course adopted in more recent times has been for the Speaker, in compliance with the wishes of the House, to convene the Standing Orders Committee, who make a report of the alterations or additions they recommend, which is printed, and considered in Committee of the whole House, with similar procedure as above.

Nature and duration of Sessional orders.

Sessional Orders and resolutions are made by the House, either at the beginning of the Session for the whole Session, until altered, or towards the end of Session for the remainder of the Session. As their name implies, their authority expires with the Session.

Nature of business regulated by them.

They refer to the days and hour of meeting; to the temporary adjournment without question if the House continue to sit till half-past six; to the precedence of Government business on certain days of the week. Towards the close of Session other orders are frequently made, *ex. gr.*, to enable the House to sit on more days than already ordered; to give motions and Orders of the Day relating to proceedings on Bills precedence over other business; to add another to the Government days—all with a view to expedite business.

Times of meeting fixed at beginning of Session.

At the beginning of each Session, the House decides on what days and at what hour it will meet for the dispatch of business. This is done on motion, of which notice is given on the first day. The days which custom and convenience have for some years fixed are Tuesday, Wednesday, and Thursday in each week; and the hour, two o'clock.

The half-past six o'clock adjournment.

The motion also provides for a temporary adjournment for one hour, at half-past six o'clock, if the House be then sitting. At that hour, without a question, the Speaker, or the Chairman, if the House be in Committee, leaves the Chair.

If the chair is once vacated, the House must meet again at the expiration of the hour.

Exception: to facilitate business.

To avoid some practical inconvenience which might arise by a strict adherence to this rule, it was ordered, on August 14th, 1879—"That during the remainder of "this Session, if, at the hour 6·30 p.m., the House "shall have ordered a division on a question, or a "ballot for a Committee to be taken, the Speaker or "Chairman of Committees, as the case may be, shall "not leave the Chair until such division or ballot has "been completed; provided that it may be competent "for any Member then to move that this House do "now adjourn."

The object of the resolution is that, if the House is engaged in any business which is of very short duration, and which, if suspended by the adjournment, would compel the House to re-assemble when there is

no intention to proceed with other business, the business under consideration may be completed, and the House adjourned regularly by the usual motion.

Although this resolution was limited to the Session in which it was carried, and has not been renewed in susbequent Sessions, it has nevertheless been observed regularly, to the general convenience of Members.

Suspension of rule for a particular day.

The Sessional Order has also been suspended, on motion, for a particular day. Thus, on September 13th, 1881, when there was a motion before the House condemning the financial policy of the Government, and there was a general understanding that a division should be taken about the time of the half-past six o'clock adjournment, and there should not be an evening sitting, in the course of the debate a motion was made, and the House ordered that the Sessional Order be suspended for this day. This enabled the division on the main issue to be taken, a suspension of the Standing Orders to be agreed to, with a view to the House adjourning for a week, and the business on the Paper to be arranged; the House adjourning ultimately at twenty minutes to seven.

The motion was made without notice, leave, or suspension of the Standing Orders, being accorded the privilege which is given to motions relating to the Business of the House.

Government Business—Precedence of, and arrangement of.

It is also provided that on certain days of the week, Tuesdays and Thursdays, Government Business take precedence of all other business. By Sessional Order of July 25th, 1872, Ministers have a right from time to time of placing Government Orders of the Day in the rotation in which they are to be taken on the days on which Government Business has precedence. This resolution has not been renewed, but the House has uniformly acquiesced in the right of the Government to arrange all Government Business on the Notice Paper, Notices of Motion as well as Orders of the Day, in the order in which they intend to take them. The practice is for the convenience of the House as well as for Ministers, as it enables the

latter to proceed with such questions and measures as they are prepared to go on with, while the former have a guarantee what business will be taken. Previous to this the Notice Paper was no sure guide, as Ministers had frequently in the House to alter the arrangement of their business, by postponement or varying the order. The House has further tacitly accorded to Ministers the right, on what are known as private days, *i.e.*, days on which Government Business has not precedence, to transpose the order of any of their own business set down for such days, but so as not to displace Private Business. The precedence accorded to Government Business does not affect the position of such formal business as is always placed at the head of the Paper, and which does not involve debate— such as leave to Members, and Notices of Motion for printing Petitions.

Formal business not affected.

When Government Business is put down for Private Days, it is entered on the Notice Paper in the order in which it was dealt with by the House. But it is customary for the Government on Private Days to postpone such Business till all the Private Business is disposed of. If formal business, or such as it is known will be regarded in certain cases as formal, *ex. gr.*, occasionally the third reading of Bills; Consideration of the Report of the Committee on a Bill: to expedite matters, Private Members generally acquiesce in such matters being taken first.

Government Business on Private Days.

It will be most convenient to describe here the ordinary routine of daily business.

Ordinary Routine.

The procedure on each branch of business will be set forth in detail under each head.

The House meets on the days and at the hour fixed by Sessional Order. At five minutes before the time of meeting a bell is rung at the Table of the House, which communicates with the rooms and offices, as a warning to Members. At the hour fixed the Speaker takes the Chair, his presence therein being announced to the House by the Clerk or Clerk-Assistant, as the case may be, the Members present rising in their places, and

Time of Meeting. Speaker takes Chair. No Quorum, House adjourns.

making obeisance to the Chair. As the Speaker takes his place the bell is again rung, and the three-minutes' glass turned. If at the expiration of that time a quorum be not present the House stands adjourned till the next sitting day.

If Quorum present, proceeds to Business.

If the Speaker is satisfied, on taking the Chair, that there is a House, he at once calls on the business.

A Quorum of the House is, by the Constitution Act, at least one-third of the Members, exclusive of the Speaker or Presiding Officer.

No Member having entered the House at the hour of meeting, can withdraw till a House is formed.

Under certain cases not necessary to ascertain if Quorum present.

While on the subject of a Quorum it may be noted that when the House attends on the Governor, business is proceeded with on return, even if no Quorum be present.

A similar practice obtains when the House meets again after a temporary suspension of its sitting, or an adjournment such as the half-past six o'clock adjournment. In neither case is the House counted.

But it is still competent for any Member then, as at any other time, to call attention to the state of the House.

The State of the House, attention called to.

The fact of there being no Quorum may be made known to the Chair either by an Hon. Member calling attention directly to there being no Quorum, or by referring indirectly thereto in debate, as by the expression "thin house," or "empty benches."

Speaker counts House.

If the attention of the Speaker be called to the state of the House, he rises in his Chair and counts the Members present.

Members remain.

No Member can leave the Chamber while the Speaker is engaged in counting. The bells are rung, and the two-minutes' glass turned. If there be not a Quorum by the time the sand has run out, the House stands adjourned.

No Quorum shown by Division.

The result of a Division may also indicate to the Chair that there is no Quorum. In this case the House stands adjourned, *ipso facto*, there being no occasion

to count, and the Standing Orders not providing for the two minutes' grace.

The division is, of course, void and of none effect.

Rule in Committee.

The same principle applies in Committee of the whole; but, in this case, the Chairman reports to the Speaker, who acts precisely as in the House. If notice has been taken, the Speaker counts the House, and the bells are rung. If the no Quorum has been shown by the division lists, the Speaker adjourns the House as above.

Names present at Count Out recorded.

In accordance with a resolution of the House of January 7th, 1858, by Standing Order, the names of Members present at count out are taken down by the Clerks, and entered in the Journals.

Business counted out.

The effect of a count out on the business is to cause the business counted out to disappear from the Paper.

And Restored.

It may, however, be restored by Notice of Motion given on a future day.

Lapsed Business.

Business which has not been called on at the time of count out appears on the Notice Paper of next day, at the foot of the regular business, under the special heading of Business Lapsed owing to Count Out, the date of lapsing being inserted.

The same business cannot be entered twice successively on the Paper as lapsed.

Rule as to.

If lapsed business, when called on, is not moved or arranged as business for a later day, it disappears from the Paper.

This practice appears to be in exact agreement with the Standing Orders, which provide for the regular Business of the Day, which, by count out or adjournment, lapses; but makes no reference to business which lapses a second time, after appearing on the Notice Paper as Lapsed Business.

A careful examination of the Notice Papers, from the first Session in 1857 to the end of 1882, proves that this has been the uniform practice of the House.

Exception to Rule.

But in the Session of 1883-4 a departure is found, and a new procedure adopted.

On November 6th, 1882, the House, immediately on meeting, adjourned, "in consequence of the death of "Sir William Morgan, M L.C., until to-morrow, Wed- "nesday, November 7th." All the business on the Paper for Tuesday—Questions, Government Business, viz., a Notice of Motion and several Orders of the Day, and other business, Order of the Day—appeared on Wednesday's Paper at the end of the regular Business of the Day, as Business Lapsed owing to Adjournment, as usual.

On Wednesday, November 7th, the House was counted out on the last regular Order of the Day, and consequently before lapsed business had been reached, except lapsed questions, which, by motion, were ordered to be taken before Wednesday's Notices of Motion and Orders.

On the Notiee Paper for Thursday, November 8th, all the lapsed business was again plaeed on the Paper, after the regular Business of the Day, and in turn was duly proceeded with.

This appears to be the sole instance of business once lapsed, and not dealt with on the first opportunity, being retained on the Notice Paper.

Quorum present. Order of Business.

A Quorum being present, the House at once proceeds to business.

Petitions.

Mr. Speaker inquires if Hon. Members have any Petitions to present; and, if so, they are received and read, or received only, by one of the Clerks at the Table.

Notices.

In answer to Mr. Speaker, Notices of Questions and Notices of Motion are then read by Members in their places, who subsequently deliver them to the Clerk-Assistant at the Table of the House, by whom they are numbered in the order in which they are handed in. It is this order which governs their place on the Notice Paper.

Questions without Notice.

During notice time, it is competent for any Member to put interrogatory questions to the Government, without notice; and, if the Minister is in a position to

reply, an answer is given at once. Otherwise it is usual to request notice to be given.

Business of the Day.

After these preliminary proceedings, Mr. Speaker instructs the Clerk to call on the Business of the Day.

Motion for irregular adjournment.

After the Business of the Day has once been called on and begun, no preliminary or informal business can be entertained. If, therefore, a Member has any urgent matter to bring before the House, it is usual to move a motion for adjournment to some irregular day or hour, at any time after Petitions and before the Business of the Day. When the question has been discussed, the motion is of course negatived, the object having been attained of a hearing. No similar motion can be moved the same day under similar circumstances; and if any Member object, the discussion must cease, and the regular business be proceeded with.

Questions with Notice.

Questions on the Paper are put and answered, or deferred to another day, if necessary; Mr. Speaker calling on each Member, by his constituency, to put the question.

Answers.

The answers are read by Ministers in their places, and then handed in to the Clerks at the Table, to be entered in the Journals.

Notices of Motion.

Notices of Motion are next called on by the Clerk, and Mr. Speaker, as in questions, summons each Member to move the motion standing in his name.

Member absent.

If any Member is not in his place to put the question or move the motion standing in his name, and has not instructed any other Member to act for him, the business disappears from the Paper.

Orders of the Day.

Two hours after the meeting of the House the bell rings for the Orders of the Day, and whatever business is under consideration is at once interrupted, the Clerk calling "Orders of the Day," and reading the first Order.

Postponed.

If the business interrupted is of importance, or such as the House desires to see continued without interruption, it is not unusual to postpone the Orders until after the question is concluded.

Business after Orders.

When the Orders of the Day are disposed of, if any other business has been interrupted by the Orders of the Day, or not called on, it is usual for the Leader of the House to move, *e.g.*, "That Notices of Motion be "now proceeded with," or "that the debate inter- "rupted by the Orders of the Day being called on, be "resumed." This can be moved by a private Member.

Notice Paper.

The Notice Paper is the authoritative guide to Members as to the Business of the Day. But in the course of a sitting other business can come before the House.

Occasional Business. Message from Governor:

Thus, the arrival of a Message from the Governor causes the immediate suspension of whatever business is before the House, while if in Committee the House at once resumes to receive the Message. Any question or motion arising out of the Message is forthwith put from the Chair.

And from Legislative Council.

A Message from the Legislative Council is received by the Sergeant-at-Arms at the Bar, and delivered to Mr. Speaker. This is done without interrupting actual proceedings, but the Speaker avails himself of the first opportunity to report the Message, and the House at once makes order in respect thereof.

Motions *re* Committees.

Motions relative to Select Committees now sitting can be made without notice, and at any time during the sitting, but not to the interruption of business.

Papers

Papers, whether By Command, Pursuant to Statute, or Returns to the Order of the House, can be laid upon the Table at any time.

Re Printing Papers.

So, also, is it in order to move the printing of Papers laid on the Table on previous days, and immediately on laying upon the Table, and to present at the Bar Bills for which leave has been given.

Order and Privilege.

Questions of Order and Privilege can, necessarily from their nature, be brought forward at any time, and are at once dealt with.

Motion for adjournment.

The sitting is brought to a close by the regular motion moved in the House and put from the Chair— "That the House do now adjourn"; Mr. Speaker de-

claring thereupon—"The House stands adjourned "until two o'clock to-morrow," or whatever is the next sitting day.

Prior to this it is usual to arrange for all the business on the Paper which has not been dealt with. Arrangement of Business.

Any business which has not been called on from the Chair prior to adjourning will appear on the next Paper as Business Lapsed owing to Adjournment.

THE GOVERNOR.—OF THE RELATIONS OF THE GOVERNOR TO THE HOUSE.

Prerogative of Governor.

To summon:

Prorogue:

Dissolve.

It is the prerogative of the Governor—

To summon Parliament to meet:

To prorogue Parliament:

To dissolve the House of Assembly.

Speaker's election notified.

The House of Assembly has the right, under the Constitution Act, to elect its Speaker; but the election must be notified to the Governor by deputation of the House.

Confirmation of privileges.

On this occasion the Governor confirms all the Constitutional rights and privileges of the House.

Communication by Message.

The Governor communicates with the House by Message.

Procedure as to Messages.

When the Governor desires the attendance of the House in the Legislative Council Chamber to hear his speech, at the opening or close of Session, or to hear the assent to Bills, the Message is brought by the Clerk-Assistant of the Legislative Council, who is announced by the Sergeant-at-Arms of the House as a Messenger from His Excellency; and the Message is delivered at the Bar of the House.

In other cases, whether Messages emanating directly from the Governor, or in answer to Addresses from the House, the Message is in writing; and is delivered either at the Bar of the House by one of the Governor's staff, or by a Minister of the Crown in his place.

When a Message from the Governor is announced, the business is at once suspended, the bearer of the Message being introduced by the Sergeant-at-Arms. He is met at the Bar by the Clerk, who receives the

Message, and bears the same to Mr. Speaker, by whom it is read to the House, Members being uncovered, and the Messenger remaining at the Bar until the Message has been read.

When a Message is communicated by a Minister, being a Member, it must be from his seat, and not during a debate, or so as to interrupt a Member whilst speaking.

Subject of Messages from Governor direct.

Messages emanate directly from the Governor.

In reference to Bills—

Thus, the Governor may transmit to the House by Message a Bill for its consideration ; or,

May recommend the House to make provision by Bill for a specific purpose ; or,

May return a Bill with amendments suggested ; or,

May give consent to a Bill so far as Her Majesty's interest or the interest of the Government is concerned ; or,

May notify his having given assent to Bills, or having reserved Bills.

This matter will be discussed more fully under the head of the Procedure on Bills.

The Governor also transmits to the House by direct Message—

Imperial Despatches and State Papers :

Estimates and Supplementary Estimates for the Service of the year :

And other matter requiring the appropriation of Public Moneys : *ex. gr.*, Excesses on Votes, &c., &c.

He may also desire the opinion of the House on a Despatch touching matter concerning the Province.

Thus, on September 24th, 1861, the Governor transmitted by Message copy of a Despatch addressed to the Secretary of State relative to adopting a Money Order system between Great Britain and the Australian Colonies, and copy of the reply thereto, "Approving "that suggestion within certain limitations, on which "it is desirable that the Governor should learn the "opinion of the Assembly."

Irregular communications:

But the House is very jealous of any communication from the Governor which does not come in any of the regular ways, or which appears in any way calculated to influence the judgment of the House or the votes of Members.

Thus, on August 22nd, 1871, the Commissioner of Public Works laid on the Table a Paper, which is thus recorded in the Journals—

"Proposed Scheme of Tramways for Metalled Roads.

"Ordered to be printed."

The Paper is not entered as By Command, Pursuant to Statute, or Return to the Order of the House, the three recognised ways by which a Paper can be laid on by a Minister.

Action of House in respect thereto.

On Thursday, August 24th, a question of Privilege was raised, the Paper being a Memorandum from the Governor to Ministers, which it was argued was laid upon the Table with a view to a debate about to ensue. The House passed a resolution—That the laying of a Paper on the Table of this House relative to Tramways be not taken as a precedent, inasmuch as it irregularly brings before this House a Memorandum of His Excellency the Governor, and a report by the Engineer-in-Chief.

Messages in reply to Addresses.

The Governor also communicates with the House by Message, in reply to Addresses from the House. The subjects of these Addresses will be more properly treated under Addresses. Generally speaking the Addresses are of such a nature that the Governor is able to comply with them. But cases will arise where, from Constitutional and other reasons, the responsibility of refusing must be accepted by the Governor alone.

Addresses not always complied with.

Thus, on August 19th, 1870, the House carried an Address to the Governor for copies of any letters or memorials from Mr. Justice Wearing to the Secretary of State, and of His Excellency's Despatches forwarding the same; but, on August 23rd, the Governor, by Message, informed the House that he was unable to

transmit the papers asked for until the reply of the Secretary of State was received.

Again, on September 25th, 1872, the House having carried an Address for certain Papers, Correspondence, and Despatches, the Governor, in reply, acquainted the House with the nature of the documents, and threw upon the House the responsibility of pressing for their production.

In other cases, non-compliance may be the result of the advice of Ministers.

THE SPEAKER. — THE OFFICE AND DUTIES OF THE SPEAKERSHIP.

Nature of the Office and duties of the Speaker.

The Speaker is the representative of the House itself, in its powers, proceedings, and dignity.

His duties may be divided into those which he performs in virtue of the Authority derived from the House itself, and those which he is required or authorised to perform by Statute.

Election.

The method of election to the Chair will first be described.

Prior to the meeting of a new Parliament it is the custom for the Clerk of the House to issue a circular to Members in the following terms :—

Preliminary Procedure.

Offices of the House of Assembly.

Sir—

In accordance with the custom of the House of Assembly, a preliminary meeting of Members will be held in the House of Assembly on

, at two o'clock, for the purpose of making arrangements for the election of the Speaker of the House.

I am Sir,

Your obedient Servant,

Clerk of Assembly.

The object of this wise arrangement is to prevent anything like a conflict of opinions or candidates when the formal election is made in the House. By an informal preliminary meeting Members agree as to their future Speaker, and the choice when made formally appears an unanimous one.

House instructed to elect Speaker.

At the opening of a Parliament Members attend by summons in the Legislative Council Chamber, to hear the Commission for opening Parliament read. The House is then instructed by the Senior Commissioner to repair to its Chamber, and having been duly sworn, to proceed to the election of a Speaker.

Statutory right to elect.

The election of a Speaker is a right conferred by Statute, and does not depend upon the leave or permission of the Crown.

Procedure on election.

When all the Members present have been sworn, a Member, addressing himself to the Clerk, proposes some other Member then present "do take the Chair "of this House as Speaker."

If only one Member be proposed and seconded, he is called to the Chair without a question being put.

The Member, on being called to the Chair, stands up in his place and expresses his sense of the honor conferred on him, and submits himself to the House.

Being again unanimously called to the Chair, he is conducted thither from his seat by his proposer and seconder.

Standing on the upper step, he again returns his acknowledgments to the House and assumes the Chair.

Election notified to Governor.

A Member having then congratulated the Speaker, a Member of the Government informs the House at what hour the Governor will receive the House for the purpose of presenting the Speaker, and the House adjourns to that hour, unless the Governor is prepared to receive the House at once.

Claim of rights and privileges.

In the event of the House adjourning, the Speaker resumes the Chair at the hour named, and then proceeds with any Members present to Government House, for the purpose of presenting himself to the Governor, when, in the name and on behalf of the House, he lays claim to their undoubted rights and privileges, and prays that the most favorable construction may may be put upon all their proceedings.

Confirmation of claim.

It is customary for the Governor to express his satisfaction at the choice of a Speaker, and to assure the

House of the Confirmation of all its constitutional rights and privileges.

On returning to the House, the Speaker announces the foregoing preceedings.

The Speaker's duties:

The duties of Speaker are primarily those performed in the Chair of the House. But others are performed out of the House, at the Governor's residence or office, at the Bar of the Legislative Council, in his own rooms at the House, at his own residence.

The ordinary duties in the Chair consist—

In the Chair.

In presiding over the deliberations of the House, and maintaining order:

In counting the House before the business is commenced, and at any time when attention is called to the state of the House:

In calling upon Members to speak, to put the questions and move the motions standing in their names, and bring up Bills:

In putting questions for the decision of the House, and declaring the result by voices or by divisions:

In giving a casting vote where necessary:

In receiving Reports from Committee of the whole House:

In receiving and communicating to the House Messages from the Governor, and from the Legislative Council:

In announcing vacancies and the issue of Writs:

In reporting Assent to Bills:

In adjourning the House, whether on motion or from want of a Quorum.

It is also his occasional duty to examine witnesses at the Bar; and to convey the thanks of the House, and, if necessary, its reprimands.

By Statute.

By Statute he has duties provided in respect of the Court for the Trial of Disputed Returns, the Act for the Audit of Public Accounts, and Writs of Election.

Addresses to Governor.

He has also to give effect to the proceedings of the House. Thus he carries to the Governor Addresses

passed by the House, as also Bills which, originating in the House, have passed both Houses.

He signs Messages to the Legislative Council. Messages to Legislative Council.

He goes up with the House to the Bar of the Legislative Council when the Governor summons the House, and presents Money Bills thereat. Attends at Bar of Legislative Council.

He is a Member of certain Sessional Committees, such as the Library, the Standing Orders, and the House or Refreshment Committees, and of any Special Committee, where his presence is peculiarly desirable. Member of Sessional Committees.

His express leave or order is necessary before any Journal, Record, or Document, laid before the House, may be removed. Removal of Documents.

He attends daily in his rooms to advise Members, and finally it is his duty to peruse and sign the daily Journals of the House. Daily attendance.

The above is but a sketch of some of the various duties of the important office of the Speakership. But these and other duties will be brought out more fully under the several matters to which they refer.

When a vacancy occurs in the office of Speaker during the currency of a Parliament, similar forms are observed in the election, except that if during Session the Clerk reports the vacancy to the House at its first sitting afterwards, when the House at once elects; if during Recess the House at the opening of Session attends the summons of the Governor, without a Speaker, and on its return the Clerk notifies the vacancy and the House elects at once. Vacancy in office, report of.

In the event of such vacancies, the Speaker, on presentation to the Governor, does not lay claim to the Privileges of the House. Privileges not claimed.

The unavoidable absence of the Speaker is provided for by a Standing Order (No. 21), which authorises the Chairman of the Committee of Supply and Ways and Means to act as Deputy Speaker from day to day, so long as the Clerk reports the continued absence of the Speaker. But in the event of adjournment, the powers of the Speaker are vested in the Deputy Speaker for Absence of Speaker, how filled.

twenty-four hours only after such adjournment. It has already been shown that Mr. Speaker, while absent from the House, can still perform at his own residence certain duties of his office.

The Speaker in Committee.

When the House is in Committee there is nothing to prevent Mr. Speaker joining in the discussion and voting. But it is customary then to regard the Speaker merely in his capacity as a Member, and in the Journals he is accordingly so entered, if moving in Committee. Thus, on September 19th, 1879, the House being in Committee on the Main Roads Bill, there is an entry in the Journals to the following effect :—

"In the Committee.

"Schedule amended.

"Sir George Kingston moved the following amend-"ment, &c."

And in the division he appears as a teller.

And again, on September 26th, in Committee on the Contractors Debts Bill.

Expiration of office.

The office of the Speaker expires when the House is dissolved.

Procedure in event of contest for the Speakership.

Although, by the plan indicated above, the House has made the chances of a contest for the Speakership highly, if not absolutely, improbable, it is nevertheless necessary to set forth the procedure in the event of rival Candidates.

If two or more Members are proposed, a motion must be made and seconded that each do take the Chair, and each such Member addresses himself to the House. In this case the voting is not open. Each Member of the House must deliver to the Clerk, in writing, the name of the Candidate whom he considers most fit and proper for the office of Speaker; and the Candidate who has the greatest number of votes, provided he has an absolute majority of the votes of the Members present, shall be the Speaker. But if no Candidate has such absolute majority, the name of the Candidate having the fewest votes is withdrawn, and a fresh ballot taken; and this shall be done as often as necessary until one Candidate is elected by an absolute majority.

Claim of Privileges.

Mention has been made above of the Speaker, on presentation to the Governor, laying laim to the undoubted

rights and privileges of the House, and of his formally notifying to the House that he has made this claim. And this is specially provided for by the Standing Orders. The practice has been regularly observed. But one departure from it is found in the Journals of the House. On May 31st, 1878, the following entry is made in the Journals:—

Instances of departure from practice, contrary to Standing Orders.

"At two o'clock, the Speaker, attended by a deputation of Members, proceeded to Government House; "and being returned, the Speaker resumed the Chair, "and announced to the House that he had proceeded "to Government House for the purpose of presenting "himself to His Excellency the Administrator of the "Government, and had informed His Excellency that, "in pursuance of the powers conferred on the House "by the 19th clause of the Constitution Act, the "House of Assembly had this day proceeded to the "election of Speaker, and had done him (Sir George "Strickland Kingston, Knight) the honor to elect "him to that high office; and, in compliance with "the other provisions of the same clause, he now, "accompanied by a deputation of Members of the "House of Assembly, presented himself to His "Excellency as the Speaker. Whereupon His Excellency "had expressed his approval of the choice of a Speaker, "and had congratulated him on having been for the "seventh time elected Speaker of the House of Assembly; and had, at the same time, congratulated the "House on its choice of Speaker."

After certain formal business, a Member (Mr. Bray) asked the Speaker why the Standing Order had not been complied with. Mr. Speaker is reported in *Hansard* to have replied—

"That, on a previous occasion, when he had followed "the custom prescribed in the Standing Order, the "Governor had used the words that he 'confirmed the "'appointment of the Speaker.' He had since looked "over the precedents and forms adopted in the other "colonies, and found they were in accordance with the "form he had adopted that day. He held strongly that "Hon. Members were entitled of themselves, without "the confirmation of anybody, to appoint their own "Speaker. He believed the House was entitled, by the "rules and meaning of the Constitution Act, to these "privileges, and he felt it would be more desirable to "affirm they were their own than risk the contingency

"of a Governor, either from forgetfulness or otherwise, "assuming a power which was the right of Hon. "Members."

It may be remarked that the reply, as quoted, avoids completely the point raised. The right to elect a Speaker is Statutory, and was never questioned; and indeed, it may be added, it is impossible to confirm an action until performed. The duty of the Speaker, which is a duty he owes to the House, to claim for the House its rights and privileges, is prescribed by the Standing Orders; and neither the practice of other Colonies nor any assumption of the Governor on a different matter is a reason for not making the claim.

It may be added that on all subsequent, as on all previous, occasions the claim has been duly made, and reported to the House.

THE CHAIRMAN OF COMMITTEES.

Chairman of Committees.

"A Member shall be appointed Chairman of Com- "mittees of the Whole House, and when so appointed "shall continue to act as such Chairman during the "continuance of the House, unless the House shall "otherwise direct."—Standing Order No. 376.

Speaker formerly Chairman.

Previously to 1875 the Speaker discharged the duties of Chairman of Committees. But attempts had been made at different times to procure separation of the offices.

Attempts to separate offices of Speaker and Chairman.

Thus, on April 7th, 1865, on the House first going into Committee, on a motion that "the Speaker take "the Chair as Chairman of Committees of the Whole "House," an amendment was moved that "it is the "opinion of this House that the Speaker should not "hold the subordinate office of Chairman of Com- "mittees"; which was negatived by an overwhelming majority. Again, on February 7th, 1872, a motion to the same effect as the foregoing amendment was moved, and negatived without division. But, on June 17th, 1874, the House, by a large majority, carried a resolution to separate the offices of Speaker and Chairman of Committees; and in the first Session of the next Parliament, 1875, effect was given to the resolution, and the offices have remained distinct ever since.

Date when separated.

Mode of Election

The mode of election is as follows:—At the beginning of a new Parliament, on the House first going into Committee on any matter, a Member moves that some other Hon. Member take the Chair as Chairman of Committees. Thus, on May 12th, 1875, on the House going into Committee on the question of the appointment of a Forest Board, it was moved "That "the Hon. Member for Noarlunga do take the Chair

"as Chairman of Committees of the Whole House." And on June 11th, 1878, on the House going into Committee on the Law of Copyright, a similar motion was moved with respect to the Hon. Member for Sturt. Again, on June 7th, 1881, on the House going into Committee to consider so much of the Governor's Speech as related to Supply, it was moved "That the "Hon. Member for Sturt do now take the Chair as "Chairman of Committees."

In the cases of June 11th, 1878, and June 7th, 1881, the Chairman Elect on taking the Chair briefly returned thanks for the honor.

Vacancy during Session, how filled.

Should a vacancy occur during Session, a new Chairman is appointed in a similar manner on the House first going into Committee subsequent to the vacancy. Thus, in 1876, the Chairman of Committees having accepted ministerial office, on June 22nd the Treasurer moved the House into Committee on the Marine Board Acts of South Australia, whereupon the leader of the House (Hon. J. Colton) moved "That the Hon. Mem- "ber for the Sturt (Mr. Townsend) now take the Chair "as Chairman of Committees."

On this occasion Mr. Speaker informed the Committee, in reply to an Hon. Member, that it was not the practice to address the House unless exception was taken to the motion. If the name of another candidate was proposed, the Speaker would resume the Chair, and a debate could ensue in the ordinary form.

Procedure when more than one Member proposed.

In 1882, the Chairman of Committees having died during Session, on October 31st, on the House going into Committee of Ways and Means, the Chief Secretary (Mr. Bray) moved in the Committee "That Mr. "Furner take the Chair as Chairman of Committee of "Ways and Means"; whereupon Mr. Symon moved "That the Hon. J. Carr do take the Chair as Chairman "of the Committee of Ways and Means." The House at once resumed, and the question was debated in the usual way, the second proposition being treated as an amendment to the first, the House affirming, on a

division. "That the words proposed to be struck out "stand part of the question."*

It may be remarked that, except in the last case cited, where there were two candidates for the office, the Journals of the House make no record of the appointment of Chairman of Committees. Appointment not recorded in Journals unless opposed.

In the case of May 12th, 1875, it is simply recorded, on the House resuming, that "the Chairman reported," &c.; but in the case of June 11th, 1878, the record, on the House resuming, is "Mr. Townsend reported," &c.; and similarly on June 7th, 1881, and so on June 22nd, 1876, after a vacancy. On this last occasion attention was pointedly called to the fact that the Votes and Proceedings did not show the record of the appointment of the Chairman. But Mr. Speaker informed the House it was not the practice in the House of Commons to place the name of the Chairman of Committees on the records on such occasions.

The duties of the Chairman of Committees, as laid down in the Standing Orders, are to preside in the Committee and maintain Order. He directs words objected to by any Member to be taken down, and reports the same to the Speaker, that the House may censure that or any other disorder. He reports to the House all resolutions arrived at in Committee, whether of Supply, Ways and Means, or directions to move the House for leave to introduce a Bill. In Committee on a Bill he signs with his initials and date every clause with the amendments, as also all new clauses inserted, Schedules, Preamble, and Title, and at the close of the Committee reports the Bill to the House. He examines the fair print of the Bill, after it has been reported, and certifies thereon that it is in accordance with the Bill as agreed to in Committee and reported. He is authorised to correct any clerical or typographical errors in any part of the Bill before it is sent to the Duties of Chairman.

* Note.—On this occasion a meeting of Members had been called by circular, as in the case of the Speakership, to avoid a contest in the House. But some exception was taken in the debate to this, on the grounds that the Chairmanship of Committees was a party appointment, and not analogous to the Speakership.

Legislative Council for its concurrence. In Committee of Supply he initials in a similar way the votes on the Estimates, and all votes in Committee of Ways and Means. In the case of equality of votes in a Division he has a casting vote, and if he gives reasons for the way in which he votes, they are entered in the Journals. In the event of no quorum he leaves the Chair and reports to Mr. Speaker. In the absence of Mr. Speaker he acts as Deputy Speaker, from day to day, according as the House is informed by the Clerk, and in the event of adjournment he exercises the duties and authority of the Speaker for twenty-four hours.

Appeal from Ruling.

An appeal lies to Mr. Speaker from the Ruling of the Chairman.

Practice of the Legislature of South Australia differs from that of Imperial Parliament.

It may be of interest to note the difference of the practice of the House of Commons in respect to the office under discussion. At the beginning of a new Parliament the first business of the Committee of Supply is to elect a Chairman, who, when chosen, continues to preside over the Committee for the remainder of the Parliament. This official Chairman, who is designated the Chairman of the Committee of Ways and Means, also presides over the Committee of Ways and Means and other Committees of the whole House. But should the House go into Committee before the Committee of Supply or Ways and Means is set up, any Member can act as Chairman *pro hâc vice*. Until comparatively recent times the Chairman of Ways and Means did not usually take the Chair in other Committees; but any other Member could act as Chairman. But when the sittings of Committees on Bills became more protracted, it was arranged that the Chairman of Ways and Means should ordinarily take the Chair in Committee on Government Bills, and sometimes on other Bills; but at no time was the attendance of the Chairman of Ways and Means necessary for the due constitution of Committee. The essence of the difference lies in this, that in the Legislature of South Australia the House provides for a Chairman of Committees of the whole House, who is thus *vi propriâ* Chairman of Supply and Ways and Means; whereas the House of Commons appoints a Chairman of Ways and Means to preside over the Committee of Supply and Ways and Means, who, for convenience, generally presides in Committee on Bills.

THE OFFICERS OF THE HOUSE.

The Chief Officers of the House of Assembly are the Clerk of the House and the Clerk-Assistant, the latter being also Sergeant-at-Arms. They are both appointed by the Governor, with the advice of the Executive Council, by Commission. The Chief Officers of the House.

By the Constitution Act, the Clerk of the House is removable from office only in accordance with a vote of the House.

The Clerk and Clerk-Assistant sit at the Table of the House in chairs on the extreme right and left of the Table, facing the House, and having between them the Chair which is filled by the Chairman when the House is in Committee. Their places at the Table.

The principal and most important duty of the Clerk at the Table is to make an exact entry of every vote and proceeding in the House, from which the Journal is compiled. He keeps a daily record of the Members present; and, in the event of a count out, notes those present at the time. He reads to the House Petitions and all Public Documents and Reports which it is usual, or the desire of the House, to have read, and which are not read by Mr. Speaker. He takes down, by direction of Mr. Speaker or the Chairman of Committees, as the case may be, words objected to in debate. By direction of Mr. Speaker, he calls on the Business of the Day, and reads the Orders of the Day. When a Division is being taken, he records those who vote with the Ayes as reported to him by the Teller on that side. He receives at the Bar the Governor's Messages from the hands of the Messenger, and conveys the same to Mr. Speaker. He carries Duties of the Clerk:

Messages to the Legislative Council. In Committee of Supply, and Ways and Means, he keeps an exact record of every vote and item; and in Committee on a Bill, he notes on a copy of the Bill every amendment made, and every new clause and schedule added, and all other proceedings on the Bill; and in certain cases makes special certificates. He gives effect to Resolutions of the House for Papers, by communicating the same to the Chief Secretary. He countersigns Addresses to the Governor, and the Journals of the House, as also the Royal Arms Copies of the Bills which the Speaker presents to the Governor. He keeps a roll on which is entered the name of each Member, the date of his election, the date of taking his seat, the date and cause of ceasing to be a Member. In the event of the House ordering a call of the House, he forwards notice of the same to Members, and calls over the names when the call is made. He has the custody of the Journals, Records, and all Documents.

At the Opening of a New Parliament, he presides till the Speaker is elected. He reads the Proclamation summoning Parliament, lays on the Table the Returns to the Writs of Election, and reads them. He reads the Commission to swear Members, and reads the Oath to Members on coming to the Table to be sworn. He has statutory duties under the Writs of Election Act and the Electoral Act; and has duties connected with Select Committees and Private Bills, which will be particularised elsewhere. He is responsible for the general conduct of the Business in the Offices of the House; and is pre-eminently the Clerk of the House collectively, not the Clerk of Members individually.

and of the Clerk-Assistant:

It is provided by the Standing Orders that, in case of unavoidable absence or illness of the Clerk of the House, the duties imposed upon him shall be performed by the Clerk-Assistant. This Officer is regarded by the leading authorities as specially the Speaker's Clerk. As such the duty devolves upon him

of assisting the Speaker in his researches into precedent and practice, when cases arise which call for deliberate rulings or expressions of the Speaker's opinion. At the Table of the House, he takes short notes of the proceedings; and in Divisions, records the Noes. He receives Notices of Questions and Motions, and numbers them in the order received. He indorses all Papers, Documents, &c., *ex. gr.*, Petitions, Returns to Order of the House, and Bills introduced. He receives Messages from the Legislative Council, brought by the Clerk of the Council; and generally acts as *alter ego* of the Clerk. He prepares the Notice Paper, and reads and corrects Proofs of Printed Matter, *ex. gr.*, the Journals, Bills in their several stages, Reports of Supply and Ways and Means, and generally supervises the routine of the work in the Offices.

As Sergeant-at-Arms, his duty is, in obedience to the House, to arrest a Member; and, by the direction of the Speaker, to arrest disorderly strangers; and to keep such in custody if commitment be ordered. as Sergeant-at-Arms.

In addition to the two principal Officers of the House, there is a third on the permanent Staff, designated the Clerk of Committees. As his name implies, his chief duty is to attend Select Committees, and conduct all the business proper thereto. In other matters, he assists the Clerk-Assistant in reading Proofs; he conducts the business relative to Printing Bills, Papers, &c.; and makes out the Paysheets, and checks and prepares for payment all accounts contracted by the Department. He conducts the distribution of all Parliamentary Papers and Documents. The Clerk of Committees.

During Session, the services of a Sessional Clerk are retained. Sessional Clerk.

THE MEETING OF PARLIAMENT.

Governor summons Parliament,

The right to fix the time and place for holding the first and every other Session of the Parliament is conferred on the Governor by the Constitution Act. But it is also ordained that there shall be a Session once at least in every year, so that a period of twelve calendar months shall not intervene between the last sitting of the Parliament in one Session and the first sitting of the Parliament in the next Session.

By Proclamation.

Parliament is summoned by Proclamation, in the following form, which is published in the *Government Gazette* some weeks before the date of meeting:—

South Australia, } PROCLAMATION by His Excellency
to wit. }
(L.S.)

Governor and Commander-in-Chief in and over the Province of South Australia and the Dependencies thereof, &c., &c., &c.

By virtue of the powers vested in me by an Act of the Governor and Legislative Council of the said Province, being No. 2 of 1855-6, intituled "An Act to establish "a Constitution for South Australia, and to grant a "Civil List to Her Majesty," and of all other powers and authorities me enabling in this behalf, I,

, Governor and Commander-in-Chief of the Province aforesaid, do hereby proclaim and fix that the time for holding the First Session of the Parliament of South Australia shall be the day of next, at o'clock : And I hereby proclaim and declare that the place for holding such Parliament

shall be the building known as the Council Chambers, situate at North-terrace, in the City of Adelaide, in the Province aforesaid; and I do hereby summon the said Parliament to meet for the dispatch of business at the the time and place aforesaid: And all Honorable Members of the Legislative Council, and Members of the House of Assembly, and all officers of the said Parliament, are required to give their due attendance accordingly.

Given under my hand and the public seal of the said Province, at Adelaide, this day of in the year of our Lord one thousand eight hundred and , and in the year of Her Majesty's reign.

By command,

Chief Secretary.

God save the Queen!

Clerk sends circular to Members.

As soon after the Clerk of the House has received the returns to the Writs as is convenient, and so as to give at least fourteen days' notice to Members, a circular is issued to Members by the Clerk, calling attention to the Proclamation of the meeting of Parliament for the dispatch of Business.

Procedure on meeting.

Clerk reads Proclamation.

House attends in Legislative Council Chamber, and is instructed to elect Speaker.

On the day appointed, the Members of both Houses assemble in their respective Chambers. At the hour named, the Clerks of the House being in their places, the Clerk, standing up, calls "Order," and proceeds to read the Proclamation. The House then awaits the Message from the Governor's Commissioners. On the Messenger being announced by the Sergeant-at-Arms, he is admitted by order of the Clerk, and delivers his Message at the Bar. The House, in compliance with the Summons, proceeds to the Legislative Council to hear the Commission read. The Chief Commissioner then instructs the House to repair to its own Chamber, and, having been duly sworn, to elect its Speaker; and further names the hour at which the Governor will, in person, declare his reasons for calling Parlia-

ment together, provided that it has been notified to him at an earlier hour that the Members have been duly sworn, and have elected their Speaker.

Commissioner to administer Oath.

The House being again in its own Chamber, the Commissioner is announced and takes his seat in the Speaker's Chair, when the Commission appointing him the Commissioner to administer the Oath to Members is read by the Clerk.

Writs reported by Clerk.

The Returns to the Writs are then laid upon the Table and read by the Clerk, after which Members are sworn, or make affirmation, at the Table.

Speaker elected; and presented to Governor.

The Commissioner having retired, the House proceeds to the election of their Speaker, after which the House is informed by the Leader of the House at what hour the Governor will be prepared to receive the House for presentation of the Speaker. The House then adjourns, and meets again to proceed to Government House. On returning, the Speaker passes through the Assembly Chamber, and having resumed the Chair, reports the foregoing proceedings. The Standing Orders provide that a Member of the Government shall then inform the House at what hour the Governor will be pleased to summon the House for the purpose of hearing the reasons for calling Parliament together. But as this has already been notified by the Commissioner, it is not usual to again inform the House. If necessary, the House may adjourn to that hour.

House attends Governor in Legislative Council;

On the Summons from the Governor being received, the House, with the Speaker, repairs to the Legislative Council Chamber and hears the Speech read.

On return transacts Business.

Having returned to its own Chamber, the House at once resolves to what hour and day it will adjourn on rising. Petitions may now be presented, and Notices of Motion and of Questions given, and the House proceeds to elect, by ballot, the Court for the Trial of Disputed Returns and Sessional Committees.

Speaker reads Governor's Speech.

The Speaker then reports that the House had that day, in compliance with a summons from the Governor, attended in the Legislative Council Chamber, where

His Excellency had been pleased to make a Speech to both Houses of Parliament, of which Speech the Speaker had, for greater accuracy, obtained a copy, which he then reads to the House. A Committee is thereupon appointed, by nomination, to prepare the Address in reply to His Excellency's Opening Speech, and to report to the House on the next day of meeting.

Papers. Papers are laid on the Table by the various Ministers, whether By Command, Pursuant to Statute, or Returns to the Order of the House of previous Sessions.

Adjournment. The House adjourns to the day and hour already settled.

Opening of Session other than the first. The procedure on the first day of Meeting of a Session, other than the first of a Parliament, differs only in the omission of those acts necessary to be performed when a new Parliament meets for the first time. The Proclamation having been read by the Clerk, the House awaits a Message from the Governor, and on the receipt thereof attends in the Legislative Council Chamber to hear the Governor's Speech.

Exception: case of 1879. But on the opening of the Second Session of the Ninth Parliament, 1879, the President of the Legislative Council being absent from the Province, pursuant to leave granted, it became necessary to elect a Member of the Council to fill temporarily the office of President.

Parliament was therefore opened by Commission, and the House was duly summoned to hear the Commission read in the Legislative Council Chamber, when the Commissioner announced that His Excellency would in person declare the reasons for calling Parliament together, so soon as the Legislative Council had chosen one of its Members to act as President during the absence of the President.

Meeting at a date earlier than that to which prorogued. Parliament may be summoned to meet at an earlier date than that to which it has been prorogued, should divers urgent matters render it expedient. Thus, on the 28th of October, 1880, Parliament was prorogued to

the 4th day of February, 1881, but by Proclamation was summoned to meet on the 4th day of January of that year.

Usual day to meet.

It may be observed that Parliament is generally summoned to meet on Thursday, that being found the most convenient day.

Duration of House.

The duration of the House of Assembly is, unless dissolved, for three years, and this period is reckoned from the day on which the House first meets for the dispatch of Business.

PROROGATION OF PARLIAMENT.

As Parliament meets only by summons of the Governor, so also are its proceedings brought to a close by prorogation by the Governor. Prorogation suspends all business until Parliament again meets, and it is therefore sometimes resorted to in order to the passing of a Bill which has been lost, as it is a rule of Parliament that no Bill of the same substance can be passed in either House twice in the same Session. Thus in 1875 Parliament was prorogued on October 15th until November 10th, when it was summoned to meet for the dispatch of business, in order to re-introduce "A Bill to impose Stamp and other Duties," which had been thrown out in the Legislative Council.

Governor prorogues

Effect of prorogation.

Prorogation to renew Bill.

Parliament is prorogued by the Governor in person, but it is not the rule, ordinarily, to prorogue to the date when it is intended to summon the Houses to meet again for a new Session. Further prorogations are declared by Proclamation in the *Gazette*.

Rule as to prorogations.

When the Governor attends to prorogue at the end of Session, the attendance of the House is commanded in the Legislative Council Chamber, whither it goes with the Speaker. On arrival the Speaker presents at the Bar Bills of Supply, Appropriation, and other Money Bills, and addresses the Governor in respect of the same. The Assent is now given to the Bills awaiting that sanction, except to those which are required to be reserved for the signification of Her Majesty's pleasure thereon. The Speech is then read to both Houses by the Governor, the concluding paragraph declaring the House prorogued to a given date.

Procedure when Governor prorogues.

THE JOURNALS OF THE HOUSE.

The Journals; their subject-matter.

The Journals of the House are the record of the Votes and Proceedings of the House, without any further reference to the debates beyond the mere entry that a debate has ensued. They are, in fact, strictly confined to *res gestæ*, and are prepared under the Standing Orders. The Clerk of the House is primarily responsible for their accuracy, for though both Clerks are bound to note the proceedings, it is from the notes of the Clerk that the first print is made. This, after careful examination by the Clerk-Assistant, and comparison with the original manuscript, is read and, if need be, revised by the Clerk, by whom it is submitted to Mr. Speaker for his perusal. It is then printed for the use of Members and for general circulation; and a copy, signed by the Speaker, and countersigned by the Clerk, is known as the Record Journal of the House. At the end of Session these copies are bound together, with a Notice Paper of each day, in one volume, and form the Authentic Record of the Session. The Standing Orders provide for their being printed by the Government Printer.

Prepared by the Clerk; and perused by Mr. Speaker, and printed.

Record Journals.

Their legal character.

It may be convenient here to remark upon the legal character of the Journals of the House. The Journals are recognised by the Constitution Act and the Electoral Act, and would be admitted as evidence of a proceeding in the House, but would not be conclusive of facts alleged, unless of facts within the immediate jurisdiction of the House.

Entries may be expunged.

The House reserves to itself the power to order an entry in the Journals to be expunged, to mark its sense of an unseemly motion.

Thus, on July 29th, 1864, it was ordered that a Notice of Motion on the Notice Paper of the day be

erased from the Notice Paper and from the Journal by the Clerk of the House.

The motion stood in the name of Mr. Sutherland, and was as follows :—

"That the conduct of the Hon. the Attorney-"General (Mr. R. I. Stow), in relation to the recent "Ministerial changes, deserves the censure of this "House; and that this House has no confidence in "the present Ministry."

The motion was described as one fraught with personal injustice, and such as would compel the Member named to resign his seat in the House, and go back to his constituency for the vindication of his character, if carried. This view was accepted by the House, and the erasure ordered.

Again, on August 7th, 1867, a Motion was made to expunge a paragraph in the Votes and Proceedings of July 12th, being a Question, with the Answer thereto, as follows :—

"Mr. Smith, pursuant to notice, asked the Attorney-"General (Mr. Andrews) whether it was true that the "present Chief Justice had had any pecuniary interest "in the business of the late firm of Hicks & Daly since "his elevation to the Bench ?"

"The Attorney-General (Mr. Andrews) replied as "follows :—

"'I am unable to answer the question.'"

On this occasion the House did not expunge the entry, but carried a resolution, as an amendment—

"That this House believes the Chief Justice has "never, directly or indirectly, had any pecuniary or "other interest in the firm of Messrs. Hicks & Daly "since his elevation to the Bench."

Record Journals in the Clerk's custody.

The Journals are in the custody of the Clerk, who shall neither take, nor permit them to be taken, from the Chamber or Offices without the express leave or order of the Speaker. By the Journals is here meant the Record Journals. Other copies are circulated without restraint.

THE ADDRESS IN REPLY TO THE OPENING SPEECH.

Address in Reply precedes all except formal business.

The first business of the Session, beyond what is merely formal, is to prepare and adopt a reply to the Governor's Opening Speech. Prior to this it is provided by the Standing Orders that no business, beyond what is of a formal character, shall be entered upon. But it is also ordered that, before the Speech is reported to the House, some formal motion shall be made or formal business transacted.

Object of transacting formal business.

The object of this is to assert the right of deliberating without reference to the immediate cause of summons.

Petitions are therefore presented, Notices of Motion and Questions given, Questions asked, Papers laid on the Table and ordered to be printed, Leave of Absence moved for and granted, Sessional Committees elected, Days of Meeting and Business arrangements settled.

Exception to present rule under former Standing Orders.

Under the original Standing Orders of the House it was competent to transact other than formal business before the adoption of the Address in Reply.

Thus, on August 31st, 1858, a Congratulatory Address to Her Majesty, on the Marriage of the Princess Royal of England, was carried; and another, to thank Her Majesty for certain Crimean trophies presented to this Province, was moved and passed. Again, on the 1st September, Motions were carried touching Offices of Profit held by Members, and the adoption of Standing Orders.

Suspension of Standing Order.

Since the adoption of the Standing Order prohibiting other than formal business, the House has agreed to a suspension of the Order, on the ground of urgent necessity.

Thus, on August 2nd, 1871, the Standing Order was suspended, to enable Mr. Ward to bring forward a Motion relative to certain lands offered for sale.

Speaker reports Speech.

When the Governor's Speech has been read by the Speaker to the House, which is not done until most, if not all, of the formal business is disposed of, a Member of the Administration, whichever Minister is leader of the House, moves that a Committee of certain Members, who are nominated, be appointed to prepare a Draft Address of the House of Assembly to His Excellency in reply to his Speech on opening Parliament; and that His Excellency's Opening Speech be referred to such Committee to report on a given day.

Committee appointed for Reply.

This Committee meets, by summons, in one of the Committee rooms, usually on the day on which the House has ordered the report to be brought up. The Draft Address is submitted by the leader of the House, and is, in practice, agreed to by the Committee, with only verbal amendments.

Draft Reply read, and adoption moved.

On the Order of the Day being read for the Address to be brought up, the leader of the House, as Chairman of the Committee, brings up the Address, which is then read by the Clerk at the Table. The adoption of the Address is moved and seconded by two Members chosen by the Administration, and is debated at length in the House, the debate being frequently adjourned, and extending over some days. Under ordinary circumstances the Address, after debate, is agreed to.

Amendments may be moved.

But it is competent to move amendments to the Address; and several instances occur in the Journals of such amendments being proposed.

Thus—

On March 4th, 1863, it was moved that the fifth paragraph of the Address in Reply be struck out; but this amendment was negatived, on division.

On June 19th, 1866, it was sought to amend the Address by adding words to paragraph 2, which was negatived; but a further amendment, to strike out words in paragraph 4 and insert another word, was

agreed to ; and the Address, as amended, was adopted by the House.

On January 19th, 1872, the leader of the House having moved for the usual Committee, an amendment was carried to the motion, making it an instruction to the Committee to embody in the Reply a paragraph disapproving of the action of the Government. When the Draft Address was brought up, and debated by the House, it was sought to amend the same by striking out the paragraph inserted under the instruction ; but this was negatived.

On May 6th, 1874, an amendment was moved to insert words, but the debate being adjourned, the amendment was, on a subsequent day, by leave, withdrawn.

On May 30th, 1876, an amendment was moved to add to the Address words condemnatory of His Excellency's "present advisers"; and this amendment was carried on a later day.

On June 3rd, 1879, an amendment was proposed to add a new paragraph condemning the financial arrangements of the Ministry ; but this was negatived, on division, at a later date.

On June 5th, 1883, it was sought to amend the Address by adding to the paragraph No. 6 words condemning the administration of the Land Act ; but this was negatived without division on the morning of June 8th, the House having sat until after 12 o'clock of Thursday, June 7th.

Appointment of another Committee in certain cases.

It will thus be seen that not only can the Address be amended, but the House can instruct the Committee which is nominated by the Administration to insert a paragraph in the Draft Address condemnatory of the Ministry. Under such a case as that of 1872, a Motion would be made to excuse the original Committee from attending, and another Committee would be appointed in their place to prepare and bring up the Address in conformity with the instruction.

Address presented to Governor.

The Address, on being brought up and read, may be at once taken into consideration, which is the

established practice, or it may be ordered to be printed, and a later day fixed for its consideration. When the Address has been adopted by the House, the Speaker takes the earliest opportunity of notifying when the Governor will be prepared to receive the Address in Reply to the Opening Speech; and, at the time fixed, the Speaker proceeds to Government House with certain Members, where, being arrived, he reads the Address, having the mover and seconder on his right and left hand respectively.

The Governor makes a short reply; and the Speaker, on returning to the House and resuming the Chair, notifies the presentation, and His Excellency's reply.

Speaker reports to House.

ADDRESSES TO HER MAJESTY AND MEMBERS OF THE ROYAL FAMILY.

Addresses of congratulation, condolence, &c.

Addresses of congratulation and condolence to Her Majesty and Members of the Royal Family, and Addresses to Her Majesty on Questions of Public Policy, and thanking Her Majesty for gifts, are frequently agreed to by the House.

Thus—

Addresses of congratulation: Instances.

Addresses of congratulation have been agreed to on the marriage of the Princess Royal of England, Aug. 31st, 1858; on the marriage of the Prince of Wales, May 20th, 1863; on the birth of a son to the Prince and Princess of Wales, June 16th, 1864; on the preservation of the life and restoration to health of the Duke of Edinburgh, August 11th, 1868; on the recovery of the Prince of Wales, February 15th, 1872; on the marriage of the Duke of Edinburgh, May 12th, 1874: on Her Majesty's escape from assassination, June 7th, 1882.

Of condolence: Instances.

Addresses of condolence have been passed on the decease of the Duchess of Kent, May 21st, 1861; on the death of the Prince Consort, April 30th, 1862; on the death of Princess Alice, June 12th, 1879.

Of congratulation to a Member of the Royal Family.

On August 11th, 1868, the House passed an Address of congratulation to the Duke of Edinburgh on the preservation of his life and the restoration of his health.

Addresses of thanks to Her Majesty.

An Address, thanking Her Majesty for presenting this Province with a portion of the trophies of the Crimean War, was passed August 31st, 1858; and on November 22nd, 1864, the House adopted an Address to the Queen, prepared by the joint Library Com-

mittee of both Houses, thanking Her Majesty for presenting the Library with a copy of the Principal Speeches and Addresses of the Prince Consort.

Addresses on Questions of Public Policy have been agreed to. Addresses on questions of Public Policy

Thus—

On June 17th, 1859, an Address was passed on the extension of the Western Boundary of the Province; on August 16th, 1859, on the state of Europe, and assuring Her Majesty of the loyalty of South Australia, and its readiness to assist in upholding the integrity of the Empire; on July 20th, 1860, on recent changes in the Postal arrangements between Great Britain and South Australia; on September 21st, 1860, for a supply of arms and ammunition; on July 24th, 1861, on the subject of the new contract for the Postal Service between this country and Great Britain; on September 24th, 1863, on the subject of transportation to Western Australia; on October 19th, 1864, on the validity of the Laws of this Colony; on October 11th, 1870, for a Bill to be introduced into the Imperial Parliament to allow of unrestricted intercolonial trade; on June 19th, 1872, on the question of precedency assigned to certain ecclesiastical dignitaries; on August 10th, 1875, in favor of the annexation of New Guinea; on October 4th, 1877, praying Her Majesty to take steps to validate certain marriages contracted under a local Act. Instances.

The House has also passed an Address of condolence to the widow of a Governor dying during his tenure of office (Lady Daly, August 11th, 1868); and, on September 21st, 1881, agreed to an Address to the Vice-President of the United States of regret at the death of the President, and of sympathy with his widow. Address to a Governor's widow, and to Vice-President United States.

The practice in moving and carrying Addresses has varied from time to time. The most simple procedure has been that of moving— Practice in moving Addresses:

"That the following Address be adopted by the "House," That an Address be adopted.

the mover placing before the House the Address which it is proposed to ask the House to agree to. This course was adopted in the case of the following Addresses :—

On the marriage of the Princess Royal, and on the Crimean trophies, August 31st, 1858; on the new Ocean Postal Service, July 20th, 1860; on the defence of the Colony, September 21st, 1860; on the death of the Duchess of Kent, May 21st, 1861; on Ocean Postal Service, July 24th, 1861; on the preservation of the life of the Duke of Edinburgh, and on the death of Sir Dominic Daly, August 11th, 1868; on the recovery of the Prince of Wales, February 15th, 1872; on the marriage of the Duke of Edinburgh, May 12th, 1874; on the assassination of the President of the United States, September 21st, 1881.

That a Committee be appointed to prepare Address, which may be brought up at once and considered, or at a later date.

Another practice is to move that an Address be presented, and that a Committee of certain Members who are named be appointed to prepare and bring up a draft Address to be adopted by the House. This Address may be at once brought up, or at a later hour of the same day; or may be brought up on any subsequent day. When the Address is brought up, it may be at once considered and adopted, or it may be ordered to be considered on a future day.

Thus—

On April 30th, 1862, it was moved that an Address of condolence, on the death of the Prince Consort, be presented to Her Majesty; and that four Members named, with the mover, be a Committee to prepare such Address. On the question being put and passed, the Address was immediately brought up, read by the Clerk, and adopted on motion.

On May 20th, 1863, a similar course was followed, the Address being brought up by the mover at a later hour of the same day, when it was read by the Clerk, and adopted on motion (marriage of the Prince of Wales); and, again—

On September 23rd, 1863 (transportation to Western

Australia), the Address being ordered to be considered on the morrow, when it was adopted; and on August 10th, 1875 (annexation of New Guinea), the Address being adopted on motion, immediately upon its being brought up by the Committee, and read by the Clerk; and on June 7th, 1882 (Her Majesty's escape from assassination), the Address was immediately brought up and adopted.

On the following occasions the Address was brought up by the Committee on a subsequent day:—

The Committee appointed May 26th, 1859, reported June 16th, when the Address was ordered to be printed, and considered on the morrow, on which day it was agreed to. (Western boundary of the Province.)

The Committee appointed June 2nd, 1864, brought up the Address on June 16th. (Birth of a son to the Prince and Princess of Wales.)

The Committee appointed June 15th, 1864, reported September 27th, when the Address was ordered to be printed, and it was considered and agreed to October 19th. (Validity of Laws.)

The Committee appointed August 4th, 1870, reported October 5th, the Address being read, and ordered to be printed and taken into consideration on the morrow, it being adopted October 11th. (Intercolonial Trade and Commerce.)

The Committee appointed May 29th, 1872, reported June 5th, the Address being read, and ordered to be considered on June 7th; and being debated on June 12th and June 19th, when it was adopted, an amendment that it be "taken into consideration this day six "months" being negatived. (Precedency.)

The Committee appointed September 12th, 1877, reported September 19th, the Address being read, and ordered to be printed and taken into consideration October 4th, when it was agreed to. (Marriage Laws.)

On June 12th, 1879, another procedure was adopted, the House being moved into a Committee of the Whole

for the consideration of an Address of Condolence to Her Majesty on the death of the Princess Alice. The Committee reported to the House and the House adopted the resolution of the Committee.

Committee appointed to prepare Address based on a resolution of a Committee of the Whole House.

On July 7th, 1859, the House was moved into Committee of the Whole to agree to a certain resolution relative to the Defence of the Colony, and on the resolution being reported and agreed to by the House, it was moved that a Committee be appointed to prepare an Address to Her Majesty, giving effect to the latter part of the resolution. The Committee reported August 16th, when the Address was read and agreed to.

Similar Addresses both Houses.

Where it is desirable that similar Addresses be passed by both Houses, the House gives leave to its own Committee to confer with any Committee of the Legislative Council appointed for a similar purpose, and orders that a copy of this resolution be transmitted, by message, to the Legislative Council. (May 26th, 1859, Western Boundary; June 21st, 1864, Validity of Laws.)

On November 16th, 1864, the House instructed the Library Committee to confer with the Library Committee of the Legislative Council to prepare a draft Address to Her Majesty acknowledging the volume of the Principal Speeches and Addresses of Prince Albert, presented by Her Majesty to the Library.

Addresses how communicated to the Governor.

The Standing Orders provide that Addresses to Her Majesty shall be transmitted to the Governor by the Speaker, requesting His Excellency to cause the same to be forwarded for presentation. The Address is not, as in the case of an Address to the Governor, presented by Mr. Speaker in person, but is forwarded with a covering letter. The same course was adopted in the case of the Address to the Vice-President of the United States. But on certain occasions the House has made a special order that the Address be signed by the Speaker on behalf of this House and presented by him to the Governor with a request that His Excellency will cause the same to be forwarded for

presentation to Her Majesty. (Ocean Postal Service, July 20th, 1860; Defence of the Colony, September 21st, 1860; the late Prince Consort, April 30th, 1862; Transportation, September 24th, 1863.)

Address communicated direct by Mr. Speaker in certain cases.

An Address, which it is not necessary to transmit through the Governor, is communicated direct by Mr. Speaker, with a letter to the person to whom the Address has been passed. (Address to Lady Daly on the death of the Governor, Sir Dominic Daly, August 11th, 1868.)

ADDRESSES TO THE GOVERNOR.

Object of Address.

The method by which the House makes known to the Governor its opinion or wish in any matter, when it so desires, is by Address, which is proposed on motion after notice.

Form.

The form of such an Address is in the following terms :—

Subjects of Address.

"That an Address be presented to His Excellency "the Governor, praying His Excellency to, &c." Such a motion is open to debate and amendment like any other question. The subjects upon which Addresses are presented are too varied to admit of complete enumeration. They comprise matters of Domestic Policy, the Administration of Justice, Confidence or Want of Confidence in the Ministry of the Day, Congratulation and Condolence, the production of Papers and Despatches, of Reports and Minutes, and of Opinions of the Law Officers, the Creation of New Offices, Introduction of Bills, Appointment of Royal Commissions, Closing and Declaration of Polling-places, Disallowance of Municipal By-laws, and, in short, representations upon all points connected with the government and welfare of the country.

Addresses for public money.

In addition to the foregoing it was formerly the practice to move Addresses for amounts to be placed on the annual Estimates for local public works, such as Roads, Bridges, Jetties, Institutes, Post Offices and Telegraph Stations, Police Stations, Hospitals, and for such purposes as Increases to Official Salaries, Surveys, Explorations, and Rewards and Bonuses. Of late years the House has abandoned this practice, which will be more fully dealt with in another part of this work.

When an Address to the Governor has been passed by the House, it is presented by the Speaker to the Governor at Government House, being signed by the Speaker and Clerk. It was, at one time, the custom for the Speaker to report to the House such presentation; this practice, however, has been discontinued, the Message of the Governor, in reply to such Address, being sufficient notification. But if it is ordered to be presented by the whole House, the Speaker goes, accompanied by Members, and, on being admitted to the Governor's presence, reads the Address, the Mover and Seconder being on his left hand.

How presented.

Presentation not notified.

Presentation by the whole House.

In this case the House is informed when the Governor will be prepared to receive the Address. Care must be taken to make a House, as the Address has been ordered to be presented by the whole House. The Speaker reports to the House the presentation of such an Address and the reply thereto of the Governor.

Procedure thereon.

Presentation notified.

In 1877 (October 3rd), Parliament having been in Session since May 31st, a Message was received from Sir W. Jervois, informing the House that he had been appointed Governor, by Commission dated July 4th, 1877, and that he had assumed the Government of the Province.

Case of Address to Sir W. Jervois in reply to Message.

It was thereupon moved, by the leader of the House, that the Message be at once taken into consideration, and that a Committee be appointed to prepare a reply to the Message of His Excellency; which, being passed, the Reply was at once brought up, read by the Clerk, and agreed to.

Procedure thereon.

The Speaker then notified to the House at what hour His Excellency would be prepared to receive the Address of the House, viz., at a quarter past three o'clock on the morrow.

It will be noticed that no Order of the House was made that the Address be presented by the whole House; but being an Address in Reply to a Message to the House from the Governor, the same course was adopted as is followed in the case of the Address in Reply to

the Opening Speech. The Journals for the day record that the Speaker, with the House, proceeded to present the Address to the Governor at Government House, and having returned, the Speaker resumed the Chair and reported to the House that he had, accompanied by certain Members, presented the Address, and further reported the Governor's reply thereto.

It has been stated, while treating of the Address in Reply to the Opening Speech, that on presenting it, the Mover and Seconder stand on the right and left of the Speaker respectively. This is a matter of use and custom, and not provided by Standing Order. The Address in Reply is not ordered to be presented by the whole House, but "by the Speaker, accompanied by the Mover and "Seconder, and such Members of the House as shall "think fit to attend"—Standing Order 33. But in the case of Addresses to be presented by the whole House, Standing Order 240 enacts that the Mover and Seconder be on the left hand of the Speaker. In the Imperial Parliament, when an Address is presented by the House of Lords, the Mover of the Address is on the right hand of the Chancellor, and the Seconder on his left; while the Mover and Seconder of an Address, in the Commons, are on the left hand of the Speaker.

ADJOURNMENT OF THE HOUSE.

It has already been stated that the right to prorogue and dissolve Parliament is the prerogative of the Governor.

Adjournment in sole power of House: on Motion.

But Adjournment is in the power of the House alone, and the House daily exercises this right at its own discretion. Except in the case of no Quorum, the House can only be adjourned upon a Motion duly put from the Chair with every consequent formality.

Daily Adjournment: Procedure.

At the close of each day's proceedings, upon a motion made and seconded from the Ministerial Benches, the Speaker puts the question, "That the "House do now adjourn," and, this being carried, further declares, "The House stands adjourned until "to-morrow, at two o'clock," or to whatever is the next day of sitting, whether that fixed by resolution at the beginning of Session, or any day and hour to which it has been decided to adjourn by some previous Motion.

Adjournment to unusual time.

If it is intended that the House, at its rising, adjourn to any day or hour other than ordinary, such adjournment must be on Motion before the Business of the day is proceeded with. Notice is usually given of such a Motion, and takes precedence on the Notice Paper of all business except Questions and formal Motions, such as Printing Petitions and Leave to Members.

Procedure of Motion.

Right of reply and Amendment.

This Motion is a substantive one, which may be debated, and entitles the Mover to a reply. It may also be amended, but the Amendment must relate to the time of Adjournment only. An Amendment to leave out the words "at its rising," in order to insert the word "now," is inadmissible; the question, "That "the House do now adjourn," being always put as a

distinct question, having no reference to the time at which it is proposed to meet again.

It is competent to move that the House, at its rising on a future day, adjourn to some more distant time.

Thus on September 12th, 1882, it was moved that the House, at its rising on September 13th, adjourn until the 19th. On this Question an Amendment, to leave out "on September 13th," was permitted, and the House resolved at its rising to adjourn to the date named.

Protracted Adjournments.

Adjournments over extended periods are occasionally agreed upon for special reasons. Thus on March 12th, 1863, the House adjourned on Motion until April 9th, to enable two of its Members to represent this Colony at the Intercolonial Conference. And on April 9th the House again adjourned until April 28th, as the Conference was still sitting. And on November 22nd, 1883, the House, on Motion, of which Notice had been given, adjourned until February 5th, 1884, to enable Ministers to attend an Intercolonial Conference to be held in Sydney. It is worthy of notice that, prior to this Motion being moved, a Member (Mr. Ward) had, without Notice, moved the usual irregular Motion for Adjournment, to discuss certain matters connected with passenger accommodation on the Northern Railways. The Chief Secretary at the time pointed out that it was not competent to discuss the Motion, as there was already on the Paper a Motion for the Adjournment, but the Question is recorded in the Journals as having been put and negatived.

Many other instances occur of Adjournments for longer or shorter periods for the convenience of Members or other causes.

Contingent Adjournment.

The House may also decide upon a Contingent Adjournment.

Thus on September 27th, 1867, it was resolved, "That the House, at its rising, do adjourn until Tues-"day, the first day of October, at ten minutes to two, "unless His Royal Highness the Duke of Edinburgh

"shall arrive in South Australia before that time, in "which case the House will then stand adjourned "until Tuesday, the fifteenth day of October next, at "the same hour."

Adjournment as mark of respect:

Sometimes an Adjournment is agreed to as a mark of respect to a deceased Member of either House, or on the occasion of any great calamity. An instance of the latter will be found in 1859, when the House, on August 10th, adjourned until August 16th, in consequence of the wreck of the *Admella*, steamer.

Instances of.

On Wednesday, October 25th, the House adjourned until October 31st, "in consequence of the decease of "William Townsend, Esq., late Chairman of Com-"mittees"; and on November 6th the House adjourned immediatly on meeting, in consequence of the death of Sir William Morgan, a Member of the Legislative Council.

Motion that House do now adjourn.

No Debate.

Limitation.

A Motion, that the House do now adjourn, can be made at any time, if made without interrupting a Member speaking, and if seconded, is put from the Chair forthwith without Debate or Amendment. If made during a Debate, it can only be moved and seconded by Members who have not spoken to the Question. The object of such a Motion during a Debate is to procure the Adjournment of the Question before the House; but to avoid the abuse of this Motion and obstruction to Business, it is provided by Standing Order No. 47 that, if the Motion be negatived, no new one shall be entertained within a quarter of an hour from the preceding one.

Irregular Motion for Adjournment for extraneous matter.

With the view to bring before the House some matter of urgent public importance, it is a frequent practice to move, that the House at its rising adjourn to some unusual hour. Under cover of this question, a Member is enabled to call attention to that which he has no other opportunity of immediately submitting to the

---

Note.—In the Session of 1884, the House, at its rising on July 8th, adjourned to July 10th, for the funeral of Mr. Justice Andrews, formerly a Member of the House.

House. The Motion after Debate is, of course, negatived, as the object for which it was made has been secured by discussion. It was the invariable rule, that no other subject than that for the discussion of which the Motion was made could be debated on this Question for Adjournment. But this rule has been relaxed of late years; and on the ground that the whole Motion is an irregular one, to which it is competent for any Member to object and prevent its being further proceeded with, Members have been allowed to discuss other matters. The Motion can only be made before the Business of the Day is called on.

Temporary Adjournments, and suspensions of Sitting.

In addition to the foregoing, at the beginning of Session, the House, by Sessional Order, provides for a temporary Adjournment at half past six o'clock, if the House be then sitting, without Motion. Temporary Adjournments, of the nature of suspensions of the Sitting, are often agreed to when the state of the Business suggests this course. The Speaker then retires from the Chair, and resumes it at the expiry of the time for which the Sitting has been suspended, without counting the House.

Note.—The inconvenience of the more recent practice of discussing a variety of topics under one Motion has been recognised in the House in the Session of 1884, and with the general consent of the House Mr. Speaker has announced his intention of reverting to the former practice.

CALL OF THE HOUSE.

When any Question of unusual importance is engaging the attention of the House, and it is thought desirable that any decision thereon, whenever taken, should represent the sense of the House at large, it is ordered, on Motion duly made, that the House be called over on a certain day. Call ordered on important question.

The Motion is proposed in the words— Form of Motion for a Call.

"That there be a Call of the House on ,
"the day of , , on, *ex. gr.*, the
"adjourned Debate, that the Bill be now
"read a second time";

or the Motion for the Call may be coupled with the consideration of certain Business, *ex. gr.*—

"That the further consideration of the Amendments
"of the Legislative Council in the Bill be
"made an Order of the Day for the day
"of , , and that there be a Call of the
"House for the consideration of the said Amend-
"ments";

or the Motion may simply be—

"That there be a Call of the House on the day
"of , ."

The day for the Call must not be earlier than fourteen days from the day on which the Call was ordered, and Notice of the Call, signed by the Clerk, must be forwarded by post to each Member. Time to elapse prior to Call.

The Order for the Call appears on the Notice Paper as the first Order for that day. First Order of the Day.

When the Order is read, the Clerk calls over the names of Members alphabetically, each Member present answering to his name. The names of Members who Call, how made.

do not answer are taken down by the Clerk, and are afterwards called over again. If they answer, or afterwards appear in the course of the same day, it is usual to excuse them for their previous default. If they do not attend the same day, they may be ordered to attend at a future day.

Order for Call may be postponed, discharged, and Motion amended or negatived.

The Order for the Call may, on the day, be postponed or discharged, and the original Motion for the Call may be negatived, or amended as to the Date of Call, or the matter for which the Call is made. Comparatively few instances of a Call of the House, and none later than 1877, when the Order was discharged, are recorded in the Journals. The following instances will suffice :—

Instances of Calls, and cases of Members absent:

On July 19th, 1861, the House was ordered to be called over on August 2nd, on the Debate on the Appointment of a Select Committee on Mr. Justice Boothby. On the Call being made on August 2nd, all the Members except five answered, one of whom, the Clerk reported, was absent on leave on account of illness ; and on the names being called over a second time, the name of the Member absent on leave being omitted, one answered, and the others subsequently attended in their places and their excuses were accepted by the House.

of Motion amended.

On August 12th, 1864, it was moved, "That there "be a Call of the House on Friday, August 25th," which was amended as to date, and finally passed for "Wednesday, August 31st."

On October 10th, 1864, it was moved that there be a Call of the House on Friday, October 26th, "on the "second reading of the Constitution Act Amendment "Bill, and that the Motion for the second reading "of the Bill be not submitted to the House until that "day"; but the Motion was amended by leaving out all the words after "October."

On the Call being made, three Members failed to answer. One subsequently attended, and his excuse was accepted by the House ; one is reported on leave,

and so entered in the attendance record for that day; the third Member did not attend in the House again, and resigned subsequently. But no action appears to have been taken by the House in the interim.

On September 15th, 1868, the House was called over on the second reading of the Appeal Court Bill. Of three Members, absent when the names were called a second time, one subsequently attended, and his excuse was accepted. The non-attendance of the other two Members was excused on separate Motions; but no reason for their absence was alleged in the Motion for either.

Order discharged

On June 27th, 1877, the last recorded instance, the Order for the Call of the House was read and discharged.

It will be seen from the foregoing cases that the House has accepted its own leave of absence, previously given, as sufficient excuse for not obeying the Call of the House, and in instances where Members have not appeared, nor sent excuses, the House has not proceeded to order their attendance, though the Standing Orders provide therefor.

Imperial Parliament practice.

In the Imperial Parliament, the Order for the Call is accompanied by a resolution that such Members as shall not then attend be sent for in custody of the Serjeant-at-Arms, and fines and other punishments were formerly inflicted upon defaulters. But the inutility as well as the inefficacy of Calls, there being no power to compel Members to vote, became so self-evident, that the practice has fallen into abeyance, and no Call has been enforced since 1836. Calls have been subsequently ordered, but the Order has been invariably discharged, and in recent times Motions for a Call have been negatived.

COMMISSIONS.

Commissions, definition of.

A Commission is a deed or instrument under the hand and seal of the Governor, addressed to certain persons, authorising them to inquire into certain specified matters upon which the Crown or Parliament needs to be informed, and to report the result of their inquiries to the Governor.

How instituted.

A Commission may be instituted—

(1) By the Crown, at its own discretion, and by virtue of the prerogative:

(2) In conformity with the directions of an Act of Parliament:

(3) On Address from one or both Houses of Parliament.

In this work it is only necessary to deal with Commissions in their relation to the House.

Object of Commission, in preference to Select Committee.

The object of remitting a subject for investigation and report to a Commission, in preference to a Select Committee, is to secure the services of those who have special knowledge, and to prevent the inquiry being terminated by the close of Session. Hence, it often happens that, when a Select Committee, after protracted investigation, is unable to complete its labors and report to the House, a Commission is moved for to continue the work of the Committee, and bring it to a conclusion.

Constitutional limitations.

It may not be out of place to indicate the constitutional limitations proper to a Commission. It is unconstitutional to refer to a Royal Commission subjects connected with the elementary duties of Executive Government, and with its relations to the Parliament (Mr. Gladstone, *Hansard* 175, p. 1219). No Commission should enter upon any question of policy which would be trespassing on ground which belongs to Parliament;

and if it appears to Government that they should take upon themselves the responsibility of issuing a Commission, an Address to the Crown, with a view to Government modifying or enlarging the terms of the Commission, would not be in accordance with Parliamentary usage (Mr. Gladstone, *Hansard*, vol. 177, pp. 233, 236). A Commission should investigate facts, not principles—the latter, as a foundation for legislation, is the duty of Government and Parliament (Sir S. Northcote, *Hansard*, vol. 184, p. 1731).

Procedure in moving for a Commission.

In the event of any subject which the House desires a Commission to be appointed to deal with, the proper mode of procedure is to move an Address to the Governor. Thus, on November 8th, 1872, it was moved and carried—"That an Address be presented to "His Excellency the Governor, praying His Excellency "to cause a Commission to be issued to inquire into "and report upon the laws referring to Intestacy, "Real Property, and Testamentary Causes."

This resolution is an instance of a case where the House considered the appointment of a Select Committee could not deal with the matter so satisfactorily; the original question having been for the appointment of a Select Committee, and the final resolution being an amendment thereto.

Practice not uniform.

The practice, however, has not been uniform. Thus, on December 3rd, 1873, it was carried—"That the "Government be requested to appoint a Commission "to consider the whole question of a new Institute "and Museum during the Recess." And, on June 10th, 1874, it was resolved—"That, in the opinion of "this House, a Commission should be appointed." (On the plans and site for Parliament Houses, *scil.*)

Instances.

On July 9th, 1879, the House passed a resolution—"That a Commission, consisting of seven Members of "this House, to be chosen by ballot, and such other "gentlemen as may be approved by His Excellency "the Governor, be appointed to report as to the Public "Finances"; and seven Members were immediately thereafter elected by ballot.

So, on August 13th, a similar resolution was carried

for a Commission on Public Works, the ballot for the Commission being made an Order for the morrow, when seven Members were elected by ballot.

Irregularity in procedure.

The practice of merely resolving that a Commission be appointed, and of settling the composition of the Commission. by ballot or otherwise, is undoubtedly irregular; for it amounts to the House resolving what it has no power to give effect to, while it ignores the proper method of communicating to the Governor the wishes of the House for the exercise of the prerogative, viz., an Address.

Under this practice, it will be seen that should the Executive deem the appointment of a Commission unnecessary, the wishes of the House may not be conveyed to the Governor. Whereas, if an Address be carried, the Speaker communicates with the Governor direct, and the Executive, even if opposed to the Commission, would recommend a Message, assenting.

> This is the rule in the Imperial Parliament. Thus, on June 27th, 1856, and again, on June 2nd, 1863, Addresses to Her Majesty for Commissions were carried against the Ministry; but, in each case, Her Majesty was advised to answer, assenting.

Members named by anticipation.

Where the House approaches the Governor by Address, it is quite competent to indicate the composition of Members whom the House desires to see on the Commission; and this is the rule where a Select Committee is unable to bring its labors to a conclusion, and seeks to be continued as a Royal Commission.

Statutory Commissions.

In the case of a Statutory Commission, it may be sometimes desirable to indicate in the Act the names of the Commissioners. In this case the names are open to Parliamentary criticism as part of the Bill.

Message in reply to Address:

When the House approaches the Governor by an Address for a Commission, a Governor's Message is sent in due time, assenting thereto.

not otherwise.

Where there is a mere resolution for a Commission, no Message is sent, although the Commission be appointed.

The terms of the Commission can make the inquiry more extensive than indicated in the Address. Enlargement of inquiry.

The Commission reports to the Governor direct. Report:

It is customary to lay the Reports of Royal Commissions on the Table, immediately after they have been received by the Governor. Prior to this, it is contrary to usage to ask questions, or to communicate information touching them. But no objection is offered to questions as to the probable date when the Report will be furnished. When communicated: Questions as to.

Thus, on June 16th, 1875, a question was asked—"When will the Report of the Railway Commission "be furnished?" And, on June 14th, 1881, a similar question was asked as to the Wharves Commission.

In the case of a Commission of the nature of a board of inquiry, nominated by the Government, and not appointed by the Governor, the Government would use their discretion in withholding the Report, if not conducive to the public interest. But a motion for the production of such Report would, if carried, cause it to be laid on. (Dry Creek Labor Prison Commission, V. & P., 1869-70, pp. 5, 29, 38.) Departmental and Special Commissions: Motion for Report.

When the Report of a Royal Commission has been laid on the Table, it is competent to ask what action the Government intend to take, or if the Government intend to adopt the recommendations of the Commission. Action after Report.

Or a motion may be made, on notice, to concur in the Report. (Public Works Commission, V. & P., 1880, pp. 242, 276; Finance Commission, V. & P., 1880, pp. 82, 87, 122.)

COMMITTEES.

Classification of Committees.

Committees are divided into—

(1) Sessional Committees:

(2) Committees for Special Questions:

(3) Select Committees:

(4) Committees of the Whole House.

Functions of Committees of the Whole.

To the last named are remitted Bills, Supply, Ways and Means, Financial, and all other Questions which demand unusual freedom of discussion.

The functions and procedure of Select Committees and of Committees of the Whole will be described in a subsequent chapter.

Sessional Committees.

Duration of Sessional Committees.

Sessional Committees, as their name implies, are appointed for the Session. In cases where they deal with matters which require attention during the Recess, and in which the Legislative Council has an equal interest, they are appointed to act during the Recess, and with power to confer with any Committee of the other House appointed for the same purpose.

Powers of.

Classification.

The Sessional Committees of the House are—The Library Committee, the House or Refreshment Committee, to which the foregoing remarks apply, and the Standing Orders Committee.

Joint Committees.

It is the practice for the Library and House Committees of both Houses to sit together as a Joint Committee, of which the President of the Council and Speaker are Chairmen alternate Sessions.

Composition of Sessional Committees.

The Sessional Committees consist of the Speaker and three Members of the House, chosen by ballot, on the first day of Session.

How elected.

The method of election by ballot is as follows:—

Procedure.

A motion is made from the Treasury benches that the Speaker and three Members of the House, to be

chosen by ballot, be appointed as the Committee, &c.

The Division Bell is then rung, and the two-minute sandglass turned. After the lapse of two minutes, ballot slips are delivered to Members, who strike out the names they desire to see on the Committee. The Member who has moved the motion then comes to the Table of the House, and takes the seat of the Chairman of Committees, between the Clerk and Clerk-Assistant. The ballot slips are handed to the Clerk-Assistant, who unfolds them, and delivers to the Member. The Member reads out the names marked, and the Clerk records them. If any ballot slip contains a greater or less number than the Committee consists of, the slip is void. In the event of a tie, the Speaker decides by lot. A vacancy occurring subsequently is supplied by ballot.

When a tie occurs.

Subsequent vacancies.

Committees for Special Questions.

In addition to the Committee to prepare the Address in Reply to the Opening Speech, the House has from time to time appointed other Committees for Special Questions. Several instances of such Committees have already been given in dealing with the Procedure on Addresses to Her Majesty and Members of the Royal Family. As has been shown, in the case of Mr. Murray *(vide ante* p. 21), the House also appoints a Committee of Privilege, if occasion arises.

Special Committees.

If it is desirable to trace proceedings in the Legislative Council, the House appoints a Committee to inspect the Journals of that House. Two Members are deemed sufficient for this purpose. *(Vide* V. & P., 1882, p. 296; Inscribed Stock Bill, and pp. 301, 302; Corporation Bill, No. 2.)

To search Journals of Legislative Council.

Committees on resolutions to bring in Bills, and Committees to draw up reasons for disagreeing to Council's Amendments on Bills, will be treated in their proper place, under the head of Procedure on Bills.

Committees in relation to Bills.

DIVISIONS.

Questions decided by voices;

"A Question being put shall be resolved in the "affirmative or negative by the majority of voices, "'Aye' or 'No.'

"The Speaker shall state whether, in his opinion, "the 'Ayes' or the 'Noes' have it; and, unless his "opinion be acquiesced in by the minority, the or by Division. "Question shall be decided by a Division of the "House."—Standing Orders 182, 183.

It is the endeavor of the Speaker to judge from the voices which party has the majority. As his judgment is open to challenge, he expresses merely his opinion, thus—"I think the 'Ayes' (or the 'Noes') have it."

Object of dividing on important Questions.

In questions of any importance, it is usual to challenge the Speaker's verdict by one or more Members calling "Divide." This is frequently done, even where there can be no doubt that the Division Lists will bear out the Speaker's decision, to enable Members to place their opinions prominently on record; sometimes for purposes of delay; occasionally to force opponents to a division, with a view to show how few constitute the minority. This latter practice is objectionable, because it is for the minority to challenge the Speaker's decision; and a call for division, under such a case, could only proceed from one of the majority, who would thus be compelled to vote with the minority.

Procedure.

If a Division be called for, the Division Bells, communicating with the Library, the Refreshment Room, the Smoking Room, and other parts of the Building, are rung by the Clerks at the Table, and the two-minute sandglass turned. The Speaker orders strangers

to withdraw. This order only applies to strangers sitting below the Bar, and of late years it has been left to the discretion of the Speaker to allow strangers to remain, the bar of the House being drawn. Strangers in the gallery were not included in the order, and an exception was made in favor of ladies below the Bar, even when that part of the House was cleared. Strangers.

When the glass has run out, the Speaker orders the doors to be locked; after which no Member can gain admittance or leave the Chamber. Doors locked.

The Speaker again puts the Question from the Chair, to enable those who were not present when the Question was first put, but who have entered in consequence of the Division Bells, to hear the Question upon which the Division is to be taken. Question again put

He then directs the "Ayes" to proceed to the right of the Chair and the "Noes" to the left, and appoints one Teller for the "Ayes" and another for the "Noes." The Tellers advance to the Table, and standing on the right and left, according to the side for which they tell, call out the names, the Clerk marking out, on a Division List, the "Ayes," and the Clerk-Assistant the "Noes." Votes, how ascertained.

The Tellers then count their respective sides, while the Clerks count the names erased, and the numbers are compared to see if they correspond. The Clerk-Assistant then hands the Division Lists to the Speaker, announcing the majority, and the Speaker declares the majority to the House. Speaker declares result.

As a rule, a Division, when called for, is immediately taken; but circumstances may arise when business of importance, and necessary to be at once dealt with, causes an interruption in the usual procedure, and the Division is postponed. Postponement of Division.

Thus, on January 12th, 1871, a Division had been called for, and the House was proceeding to divide, when Mr. Speaker said the Division must take place after a Message he had received was disposed of. The Instance.

Message was from the Legislative Council, in reply to one from the House of Assembly requesting a Free Conference on the "Waste Lands Alienation Bill, 1870," naming the time and place for the Free Conference. Thereupon the Managers were appointed, the Conference held, and reported to the House. Further business in connection with the Bill was proceeded with, the Bill dropped, the Standing Orders suspended, and another Bill dealing with the Waste Lands introduced and carried through all its stages; after which the Division which had been called for early in the day was taken.

Imperial practice.

This is strictly in accordance with the practice of the Imperial Parliament. (*Vide* House of Commons Journals, vol. 126, p. 57; also May, p. 307. Note—ed. 9th.)

Member calling for Division must vote.

A Member who calls for a Division must remain in the House and vote.

Other Members may retire.

Other Members may retire during the two minutes which elapse while the sand is running out, and before the doors are locked. This opportunity is availed of by those Members who have paired, or prefer not to vote. But any Member present when the Question is put with locked doors must record his vote.

When Question put, all must vote.

Instance.

Thus, on December 16th, 1868, on a Motion to amend the Tariff, the Committee having divided, and the Division being reported, attention was called to the fact that the name of Mr. Bean did not appear on the Division Lists; and Mr. Bean acknowledging, in reply to the Chairman, that he was in the House when the Question was put, was called upon to vote, and voted with the "Ayes," whereupon the Division Lists were corrected.

Exception.

But if by any chance Members enter the House after the Question is put the second time, immediately prior to the actual Division, their votes will be disallowed.

Instances.

Thus, on November 5th, 1873, and again on November 25th, attention was called to the fact that certain

Members had voted who were not in the House when the Question was put; and, the Members acknowledging, their votes were struck off.

A case of this kind could only occur by an omission of the doorkeepers to lock the doors.

Member calling, votes with minority

A Member calling for a Division must vote with those who, in the Speaker's opinion, were in the minority; and if voting otherwise his name will be transferred.

Instances.

Thus, on August 24th, 1869, the name of Mr. D. Fisher, who had challenged the decision of the Speaker, appearing as having voted with the "Ayes," was removed from the Division List for the "Ayes" and inserted on that for the "Noes"; and on November 29th, 1870, the name of Mr. Ward was similarly transferred; and on April 24th, 1872, the name of Mr. Boucaut.

Member's vote must be in accordance with his voice, unless challenging Speaker's decision.

It is an universally admitted principle of Parliamentary usage that a Member is bound to vote on the side on which he has given his voice, *i.e.*, a Member giving his voice with the "Ayes" (or "Noes"), when the Speaker calls for the voices, is bound to vote with them. If a Member votes on the opposite side to that to which he has given his voice, his vote should be transferred. But should a Member, inadvertently or otherwise, challenge the Speaker's decision, after having given his voice, he is compelled to vote with the minority, even if, as often happens, he is brought thereby to vote contrary to the way he has given his voice, and contrary to his own views. (Votes and Proceedings, 1867, p. 214.)

Member may vote against his own motion.

A Member who has made a Motion is entitled to vote against it; but in this case, on the Speaker calling for voices, he should give his voice against his Motion.

Instance.

Thus, on October 20th, 1874, on a Motion for the second reading of a Bill (Murray Railway), to which Mr. Boucaut had moved an amendment of the nature of a resolution, on a Division being called for by

another Member, Mr. Boucaut voted with the "Ayes," *i.e.*, against his own motion.

Member may, by leave, withdraw call for Division.

A Member having called for a Division, may ask leave, any time before the doors are locked, to withdraw his call. In this case, a Question is put from the chair—That the Member have leave to withdraw his call for Division. The leave must be unanimous, otherwise, if there be a dissentient voice, the Division must be taken.

Instance.

Thus, on October 11th, 1867, Mr. Strangways moved—"That the Schedule (Fire Brigade Bill) be "reconsidered"; and, on voices being given, the Chairman decided that the "Ayes" had it. Mr. Strangways inadvertently called for a Division, and leave to withdraw the call being refused, Mr. Strangways voted with the "Ayes."

The Chairman directed that his name should be removed from the "Ayes" and inserted on the List for the "Noes."

> This example proves also the rule already laid down, as to how a Member challenging the decision of the Chair must vote.

Voices on both sides.

"A Division cannot be called for unless voices have "been given both for the 'Ayes' and 'Noes.'"—Standing Order 198.

This Standing Order presents no little difficulty.

Standing Order, how to be interpreted.

It has been maintained that there must be more than one voice on each side, that is, at least two voices for the "Ayes" and two for the "Noes," to allow of the call for a Division; and this interpretation seems in harmony with the principle that the opinion of Members is to be collected from their voices in the House, the actual Division being only a practical test of the voices. As a Division cannot take place if there be only one Member on a side, it seems that the Standing Order implies that the House should not be called upon to divide unless voices indicate that the Division can be proceeded with. On the other hand, the subsequent Standing Order, 207, contemplates the possi-

bility of only one Member appearing on one side, when the Speaker has ordered the "Ayes" and the "Noes" to take their respective sides. And as a Member is bound to vote similarly as he has given his voice, it is open to argue that where only one appears on a side, only one voice will have been given on that side.

Pairs.

The practice of pairs, however, introduces another element of difficulty, as of two voices calling upon a a side, and a division being demanded, one of these may go out, having paired.

Rule laid down as to "voices."

The practice of the House, undoubtedly, is to accept one voice as justifying the call; and on September 23rd, 1870, Mr. Speaker stated, during a discussion, where the strict grammatical interpretation of the Order was contended for, "The words, 'voices for the Ayes "'and Noes,' mean a voice on each side." *(Hansard*, 1870-71, p. 912.)

No Division if only one Member.

If only one Member appears on a side, on a Division, the Division is not proceeded with, and the Speaker declares the resolution arrived at.

Exception.

A remarkable exception to this rule appears in the Votes and Proceedings of November 6th, 1873.

On a Motion to suspend the Standing Orders, to enable a Division to be taken on the second reading of a Bill, Mr. Solomon announced that he should vote against the suspension, which, under Standing Order 425, in effect, if not expressly, implies a Division, such a Motion requiring the concurrence of an absolute majority of the whole Members of the House. The following is the record:—

"The Speaker counted the House, and, twenty "Members being present, put the Question.

"Voices having been given in the negative,

"House divided.

"Ayes, 20. Noes, 1.

"There being an absolute majority of the whole "number of Members of the House, the Standing "Orders were suspended."

It will be observed that Standing Order 207 was ignored, and the Division proceeded with, though only one Member appeared on the side of the "Noes." The record also states that "voices" were given in the negative. If this is correct, it is clear that one or more Members voted in an opposite way to that which they had called. Under such circumstances, it would appear competent for the Speaker to have carried out Standing Order 207, and declared the Motion carried, having counted the House, and ascertained that twenty Members were present, nineteen of whom, an actual majority, concurred in the Motion.

A second Division.

In cases of confusion or error in the numbers reported, the House will, if necessary, proceed to another Division.

And on July 25th, 1865, complaint being made to the Chair that the doors had been locked before the two minutes had elapsed, the Question was again put, and the Division taken anew.

Correction of error in List.

The House orders, also, the Votes and Proceedings to be corrected, in the event of any mistake in the Division Lists when they appear in the Journal.

Thus, on February 13th, 1866, Mr. N. Blyth drew attention to the Division List in the Journal of 8th February, in which his name appeared, he having neither been present nor voted, and moved that the Votes and Proceedings be corrected, by his name being struck off, which the House ordered to be done.

Member voting on both sides.

Cases have occurred in which a Member, through misapprehension or inadvertence, has voted and been told on one side, and, discovering his error, has crossed over, and had his name recorded on the other. In this case his name appears on both Division Lists. The attention of the Chair is directed to this when the Lists are handed up. The Speaker calls the Member to the Table, and asking him on which side he desires to vote, causes the List to be corrected accordingly.

The Division Lists are signed by the Tellers.

Casting vote.

If the Numbers should happen to be equal, the

Speaker, who otherwise never votes, gives a casting vote.

Any reasons stated by him shall be entered in the Votes and Proceedings *(vide* Standing Order 212). Reasons recorded.

Though it is open to the Speaker to vote according to his own views and opinions, and without assigning a reason, the recognised principle is for the Chair so to give a casting vote as not thereby to make the decision of the House final. Principle of casting vote.

From an examination of all the casting votes given by the Chair, in the House or in Committee, the same rules applying in each, the following principles may be drawn as governing casting votes :— Classification of principles governing casting votes.

(1) That the vote should be given to allow of further time and discussion :

(2) That it should be in support of past decisions and actions of the House :

(3) That, where the convenience of Members or procuring information is concerned, it should be in furtherance thereof :

(4) That it should be against expenditure :

(5) That, where redress of grievances is sought, it should support Motions favorable thereto :

Thus, casting votes have been given—

(1) Against a Motion that the House do now divide (V. & P., 1861, p. 42; 1874, p. 356): Instances of principle (1).

For the second reading of a Bill (V. & P., 1865-6, p. 199; 1868-9, p. 235) :

Against reading a Bill this day six months (V. & P., 1864, p. 248) :

Against further considering a Bill in Committee this day six months (V. & P., 1865, p. 95) :

For adjournment of Debate (V. & P., 1865-6, p. 293; 1872, p. 393) :

For re-committal of a Bill (V. & P., 1873, p. 174) :

To refer a Bill to Select Committee (V. & P., 1879, p. 98).

Exception. But, on December 19th, 1866, within a month of the close of Session, a Motion being made that the Committee on the Road Act Amendment Bill have leave to sit again this day six months, "the number "of the 'Ayes' and 'Noes' being equal, the Speaker "gave his casting vote in favor of the 'Ayes,' to allow "time for further consideration." As a motion of this nature practically disposes of a question, and is only made with that object, it is difficult to understand the casting vote in this instance (V. & P., 1866-7, p. 254).

Instances of principle (2). (2) For a reason for disagreeing to a suggestion made by the Legislative Council in a Loan Bill, the suggestion being to leave out an item, and the Committee, by the casting vote of the Chairman, having disagreed to the suggestion (V. & P., 1878, p. 336):

For maintaining the practice of the House as to its days of meeting (V. & P., 1883, p. 11).

Exception. But, on June 16th, 1870, the Speaker gave a casting vote in favor of rescinding a resolution of the House, instructing the Attorney-General to prosecute the publishers of the *Wallaroo Times*, on the grounds that the House had "still the power to act upon the "first resolution," viz., that the publishers had been guilty of contempt (V. & P., 1870-71, p. 51).

Instances of principle (3). (3) Against admission of Strangers to the Refreshment Room (V. & P., 1864, p. 272):

For Official Papers (V. & P., 1871, p. 31; 1872, p. 430):

Instances of principle (4). (4) Against Free Passes, by Contract Mails, to Members of Parliament (V. & P., 1870-71, p. 328):

Against Railway Expenditure (V. & P., 1881, p. 226).

But where the vote is not final, but leaves the matter to be further discussed, the Speaker will vote for the Motion.

Thus, on October 1st, 1869, the Speaker gave a casting vote in favor of going into Committee to consider an Address for Money, to allow of further discussion. And the Speaker has exercised his right of judgment in favor of expenditure.

Thus, on October 22nd, 1858, the Speaker gave a casting vote in favor of expenditure by the Harbor Trust, on the grounds that it "that it was best calcu- "lated to promote the interests of the Province" (V. & P., 1858, p. 114). Casting vote in favor of expenditure.

(5) For agreeing to the Report of a Committee in favor of a vote to Local Court Officials, "that the Government might have an "opportunity of redressing any grievances "that existed" (V. & P., 1863, p. 264). Instances of principle (5).

For submitting to arbitration a case between an individual and the Collector of Customs, "as he considered it his duty to support "inquiry when any individual complained "of a grievance against the Government" (V. & P., 1872, p. 500).

For referring to a Commission of Inquiry a dispute between the Government and an individual, in the matter of Hope Valley Aqueduct, for the same reasons (V. & P., 1872, p. 526).

The following cases may be cited as instances where the Speaker has voted according to his own views and opinions on the matter involved :— Instances of Speaker giving casting vote in support of his own opinions.

Against the second reading of Waste Land Sales Act Amendment Bill (V. & P., 1861, p. 187) :

Against appointing a Select Committee on the South Australian Institute, "on the ground "that, in his opinion, the management of the "Institute was ably conducted by the Gover- "nors" (V. & P., 1861, p. 215) :

For the third reading of the Chinese Act Repeal Bill, "stating as his reason for doing so that he "had experience of the Chinese in various

"Australian Colonies, both on a station and the "goldfields, and that he was able to say that he "had never known more orderly bodies of "men" (V. & P., 1861, p. 237):

Against the second reading of the Main Roads Bill, 1862, "on the ground that he had seen "no reason to change his opinion since being "called on in the previous Session to give a "casting vote on the same subject" (V. & P., 1862, p. 154):

Against the further consideration in Committee of the Main Roads Bill, 1862, "on the ground "that since being called upon to give a casting "vote on this Bill on a former occasion he had "seen no reason to change his opinion" (V. & P., 1862, p. 242):

Against an Address to the Governor, "on the "ground that, since a large majority of the "House had negatived the same question last "Session, nothing had been adduced to require "an opposite decision" (V. & P., 1862, p. 278):

Against printing a Petition, "on the ground that "a Petition having a similar effect had already "been printed" (V. & P., 1863, p. 210):

This might come under the practice of voting to save expenditure.

For the desirability of extending postal communication (V. & P., 1871, p. 39):

For the uniform enforcement of a regulation of the Civil Service relative to private practice (V. & P., 1872, p. 447):

That premiums offered for designs for New Institute Buildings were inadequate (V. & P., 1873, p. 154):

For the insertion of the condition "Nominated in "South Australia" into a resolution in favor of forwarding emigrants without delay (V. & P., 1883, p. 313):

As this still left the question open to further discussion, the casting vote was probably given as not finally settling the question, which, in this instance, was ultimately negatived.

Votes of Want of Confidence.

The gravest question upon which the Speaker is called upon to give a casting vote is, undoubtedly, when a vote of want of confidence in the Government of the day results in a tie.

Instances of casting votes for Ministry.

On September 24th, 1862, it was moved—"That "this House has no confidence in the present "Ministry." The Previous Question was moved, and the Speaker gave his casting vote for the Previous Question, *i.e.*, with the "Noes," "on account of the "late period of the Session, and his knowledge that a "general election must shortly take place; and "because he had not heard any satisfactory reason "why the motion should be carried" (V. & P., 1862, p. 286).

On June 30th, 1863, on the Motion to go into Committee of Supply on the Estimates, an Amendment was moved, censuring the Government for a proposal to absorb an amount out of the Immigration Vote to equalise Income and Expenditure.

The Speaker gave his casting vote against the Question when finally put, "on the ground that there had "been no misappropriation of the sum of £25.000, "voted last year for Immigration; and that the "custom had been departed from of giving Notice of "Motion of a Want of Confidence, so as to enable a "Ministry to prepare its defence" (V. & P., 1863, p. 117).

Instances of casting votes against Ministry.

But on November 16th, 1871, on a vote of Want of Confidence, the Speaker gave his casting vote in favor of the Motion, stating "I have always been of opinion "(and have so stated repeatedly) that, when on a vote "of Want of Confidence, a Ministry do not command "a majority, it is the duty of the Speaker to vote as I "now do, with the 'Ayes'" (V. & P., 1871, p. 226).

And on October 17th, 1877, the Speaker voted in

the same way, referring to the principles he had stated on a previous occasion, "but without expressing any "opinion on the Question under discussion" (V. & P., 1877, p. 236).

> With regard to Questions of this character, it may be held that the rule, which inculcates the duty of the Speaker to give a vote which shall allow the Question to be raised again, applies to votes of Want of Confidence. The Speaker may properly decline taking the responsibility of a change in the Administration on his single vote. The case of the casting vote of Mr. Speaker Denison on the Church Rates Abolition Bill (third reading) presents a slight analogy, and the reasons then given are not wholly inapplicable to the votes under review. (Cf. Blackmore's "Denison's Decisions," p. 182).

Chairman's casting vote: same rules apply.

In giving his casting vote, the Chairman is governed by the same principles as the Speaker. He therefore votes in favor of further time and discussion; in support of previous decisions; against expenditure; but, similarly as the Speaker, he is not precluded from voting in accordance with his views.

Thus—

Instances.

On June 14th, 1861, the Chairman gave his vote against an Address to the Governor for a Road Bill.

On August 26th, 1863, for an increase of salary to the Colonial Surgeon, "on the ground that he con- "sidered the salary of £500 insufficient, regard being "had to the professional abilities of the Colonial "Surgeon, and the management of the departments "under his charge."

On November 22nd, 1864, against certain resolutions affecting Waste Lands.

And in Committee on Bills, the Chairman frequently supports or opposes clauses or amendments, as they recommend themselves to his judgment.

Thus—

On the Mineral Leases Bill, the Chairman voted against an insertion of certain conditions relative to rent and renewal (V. & P., 1862, p. 331).

Against the insertion of a Sunday-closing clause in the Licensed Victuallers Bill (V. & P., 1865-6, p. 250).

Against postponing a clause in the Land Bill, "as "he considered the evils of dummyism required the "appointment of a tribunal to guard against them." (V. & P., 1874, p. 316).

In Committee of Supply— In supply.

The Chairman will support a motion to reconsider (V. & P., 1857-8, p. 293).

And where reductions are proposed, he will vote for the lesser sum (V. & P., 1858, p. 179; 1868-9, p. 231).

Where it is proposed to omit the item altogether, he votes to omit (V. & P., 1868, pp. 243, 244).

But where the Committee would have an opportunity of voting upon any other reduction of the vote, the Chairman declares himself with the "Noes."

Thus, on September 30th, 1879, an item, £900, being read, the Chairman gave his casting vote against the proposed reduction, £300; the vote being subsequently passed at £500.

Precedents occur of the Chairman supporting an item by his casting vote, on the grounds of public benefit (V. & P., 1862, p. 253; 1874, p. 210).

Pairs.

The practice of "pairing" on a Question is one which is resorted to by Members for mutual convenience. By this system a vote is neutralised on each side of a question, and the result of the division is the same as if both Members were present and voted. There can be no Parliamentary recognition of this proceeding, which is one of private arrangement. But it is the custom for the Members who have "paired" to deposit with the Clerks at the Table a record in writing, with a request that it may be forwarded to the publishers of *Hansard*.

THE LEGISLATIVE COUNCIL AND THE HOUSE OF ASSEMBLY.—COMMUNICATIONS BETWEEN THE TWO HOUSES.

Means of communication.

"Communications with the Legislative Council may "be by Message, by Conference, or by Sessional or "Select Committees conferring with each other."—Standing Order 247.

The House of Assembly informs the Legislative Council by Message—

Subject of Messages.

Of the appointment of Sessional or Select Committees, to whom power has been given to confer with similar Committees of the Council:

Of resolutions which have been passed by the House, and which it may concern the Council to be acquainted with:

Of leave given to a Member, or an instruction to one of the Officers of the House, to attend as a witness before a Select Committee of the Council.

By Message, also—

The House transmits and returns Bills, and notifies agreement or disagreement to the Amendments made by the Council in its own Bills, and insists on Amendments:

Requests or grants conferences:

And asks for leave for a Member of the Council, or one of its Officers, to attend before a Select Committee of the House.

It is an accepted rule that no Message be sent from one House to another but whilst both Houses are sitting, with their Presiding Officer in the Chair. When Messages may be sent.

Instance of departure from rule.

On June 12th, 1857, the House of Assembly adjourned until July 21st. On June 16th, the Journals of the Legislative Council record—"A Messenger of "the House of Assembly having been announced, the "President called the Messenger to the Chair, and "informed him that, as the House of Assembly was not "now sitting, the Council declined to receive the "Message."

On the House re-assembling on July 21st, the Speaker reported the occurrence to the House, and read the official report addressed to him by the Clerk, detailing the proceedings.

A Resolution was subsequently passed, and transmitted by Message to the Legislative Council, requesting to be informed of the grounds upon which those Messages were refused. The Message from the Council, in reply, gave the reason already stated, viz., the House having adjourned.

On October 21st, 1857, the House passed a Resolution adopting a Standing Order, to the effect that it would receive Messages from the Council at all times when the House is sitting; and, on October 22nd, transmitted the same by Message to the Council, requesting the Council to adopt the same practice in respect to Messages from the House.

The Legislative Council referred the Message to the Standing Orders Committee for report. The matter appears to have been dropped, as the Standing Orders adopted by the House, September 28th, 1858, and approved by the Governor, November 20th, 1858, leave untouched communications between the two Houses. The Standing Orders of 1864, which again deal with such communications, merely order the immediate receipt at the Bar of Council's Messages.

Procedure on receipt of Message.

The procedure when a Message from the Legislative Council is announced at the Bar has already been described *(vide ante* Business of the House, p. 36).

In treating of Select Committees and Bills, the subject of Messages to the Council will again be dealt with.

Conferences.

Occasionally questions arise where the ordinary

practice of communication by Message is insufficient to explain opinions and reconcile differences, and where it is desirable to bring the two Houses into more direct intercourse with each other. The end and object of a Conference is to create and maintain a good understanding, and to secure co-operation between the two branches on any matter or question which, if left to procedure by Messages, might fail of settlement.

Subjects of Conferences.

The subjects for a Conference—

(1) Resolutions or Addresses to which the concurrence of the other House is desired:
(2) The Privileges of Parliament:
(3) The course of proceeding in Parliament:
(4) Statements of facts on which Bills have been passed:
(5) Reasons for disagreeing to or insisting on Amendments made by one House to Bills passed by the other.

Conferences not to be anticipatory.

A Conference must not be sought with a view to interfere with or anticipate the proceedings of that House with whom a Conference is desired.

"No Conference shall be requested by the House of "Assembly upon the subject of any Bill or Motion of "which the Legislative Council is at the time in pos- "session."—Standing Order 256.

Procedure.

If a Conference be desired, proceedings are initiated by a Motion requesting a Conference, specifying the Members proposed by the mover to be the Managers for the House of Assembly.

Message.

The request must be by Message to the other House, stating, in general terms, the objects for which the Conference is desired. These need not be stated with minute distinctness. It is sufficient if they show proper ground for holding a Conference, *ex. gr.*, "on "matters of high importance and concern respecting "the Amendments made by the Legislative Council in "the Waste Lands Alienation Bill" (V. & P., 1870-71, p. 455; Cf. also Minutes of the Proceedings of the

Legislative Council, 1870-71, p. 143). The number of Managers proposed to serve is also set forth in the Message.

The Managers may, if required by any one Member, be selected as are the Members of a Select Committee.

Number of Managers.

Imperial practice.

The Standing Orders prescribe that the Managers shall be not less than three at an Ordinary and five at a Free Conference, but do not limit the choice. The Imperial practice is to appoint those who were the Members of the Committee which drew up the reasons, and to add others.

Time and place for Conference.

If the request be granted, which is notified by Message, appointing the time and place for holding the Conference, the House agrees to the same, and communicates such agreement by Message.—Standing Order 259.

At the time fixed the Speaker directs the Managers to proceed to the Conference (*Hansard*, 1870-71, p. 1974).

House suspends action during Conference.

While the Managers are at the Conference the deliberations of both Houses are suspended, both Houses being held to be in direct intercourse by deputations of their own Members.

Ordinary and Free Conference.

Every Conference is taken to be an "Ordinary Conference," unless a "Free Conference" be in terms mentioned.—Standing Order 255.

Ordinary Conference.

Procedure.

At Ordinary Conferences all communications between the Managers of the respective Houses are in writing; and the duty of the Managers of the House of Assembly is confined to reading and delivering to the Managers of the Council the reasons or resolutions they have to communicate, and hearing read and receiving the like from the Managers for the Council.

When the Conference is over, the Managers return to the House, and report their proceedings.

The Bill, *ex. gr.*, is now in possession of the Council, together with the reasons of the House for disagreeing to their Amendments.

The Council, if satisfied, may send a Message to the House that they do not insist upon their Amendments.

Second Conference.

But if the Council insist upon the whole or part of their Amendments, they may desire another Conference, and communicate their reasons.

Procedure.

The Message is at once considered, the Standing Orders being suspended.

The House of Assembly, in this case, appoints the time and place, and the number of their Managers is the same as that of the Council. In other respects the procedure is as before.

After return and report made. the House goes into Committee to consider the communication of the Council.

Free Conference.

It is then competent for the House to request that a Free Conference be granted.

Procedure.

At a Free Conference, as already stated, the number of Managers is not less than five. They are at liberty to confer freely, by word of mouth, with the Managers for the Legislative Council; and to attempt, by personal persuasion, to effect between the Houses the agreement which the written reasons had failed in producing.

Result, if Free Conference fails.

If a Free Conference should prove as unsuccessful as the former, the case is helpless.

Imperial practice.

> The Standing Orders make no provision for further action when a Free Conference has failed. But it is laid down in "May's Parliamentary Practice," p. 495, 9th ed., that "if the House in possession of the Bill should "at length be prepared to make concessions, in the hope "of an ultimate agreement, it is competent to desire "another Free Conference upon the same subject; or, "if any question of privilege or other new matter "should arise, an Ordinary Conference may be de-"manded."

Instance of an Ordinary Conference granted to the House at its request by the Legislative Council; followed by an Ordinary Conference granted to the Council at its request by the House; in turn followed

The Journals of the House of Assembly, 1870-71, afford an instance of the whole procedure from an Ordinary to a Free Conference.

On November 1st, 1870, the Waste Lands Alienation Bill was read a third time and passed; and, on November 8th, was carried by the Clerk to the Legislative Council in a Message, dated the day of passing.

by a Free Conference. (Waste Lands Alienation Bill, 1870.)

On December 22nd, it was returned by the Legislative Council with Amendments: and, the Standing Orders being suspended, pursuant to contingent Notice of Motion, the Amendments were at once considered; but it was not till January 5th, 1871, that the Committee reported to the House. Certain of the Amendments were agreed to without Amendment; some were agreed to with Amendments; one was partly agreed to, and partly disagreed to; others were disagreed to. The House adopted the Report, and a Committee, as usual, was appointed to draw up reasons for disagreeing. The reasons were agreed to by the House, and, on January 6th, the Bill was returned to the Council with the usual Message.

On January 7th, the Bill was returned to the House with a Message, notifying that the Council disagreed with some of the Amendments made by the House on the Council's Amendments, and agreed to the other Amendments; and insisted on some of the Amendments to which the House had disagreed, and did not insist on the other Amendments, with reasons.

On January 10th, the Message was considered in Committee, progress was reported, and the Committee obtained leave to sit again at a later hour same day. A Motion was then made in the House to request a Conference. The debate thereon was interrupted, the time having arrived for the Committee to resume its sitting.

The report of the Committee was brought up, which was to the effect that the Committee had agreed not to insist on their disagreement to certain Amendments on which the Council had insisted; and had considered the Amendments made by the House on the Amendments made by the Council, to which the Council had disagreed, and had agreed to insist on part of a certain Amendment, and not to insist on another part; had made an Amendment consequent thereupon, and had agreed to insist on another part of the same Amendment; had agreed to insist on part of another

Amendment, and not to insist on another part of that Amendment; and had agreed not to insist on the Amendment of the House to another Amendment of the Council, and had made an Amendment to the original Amendment of the Council in that Amendment.

The House agreed to the report.

The debate on the Motion for a Conference was then resumed, and the Motion carried.

A Committee of three was then appointed to draw up reasons to be advanced at the Conference why the Council should not insist on disagreeing to parts of certain Amendments, and for agreeing to an Amendment, with an Amendment to the original Amendment of the Council, made by the House on Amendments made by the Council.

On January 11th, a Message was received from the Council granting a Conference, naming an hour (ten minutes past three) and a place (Committee Room, Legislative Council). Three Members were, on Motion, appointed Managers of the Conference on behalf of the House.

At the time specified, the Managers withdrew, and, being returned, one of their Members reported that they had been at the Conference, and had delivered the reasons adopted by the House, together with the Bill and the Schedules of the Amendments.

Proceedings were suspended in the House during the holding of the Conference.

On the same day, at a later hour, a Message was received from the Legislative Council, requesting a Conference, and naming the number of Members to represent the Council.

The Standing Orders were suspended, and the Message at once considered.

It was resolved, on Motion, that a Conference be granted, and a place (Committee Room A) and a time (half-past five o'clock) named.

By Motion, three Members were appointed Mana-

gers, and, at the hour named, went to the Conference. On return, they reported having been at the Conference, and having received from the Managers for the Council Schedule of Amendments made by the Legislative Council in the Bill, as further or otherwise amended by the House of Assembly, to which the Council disagreed, and Schedule of Amendments to which the Council agreed, with reasons.

On Motion, the House went into Committee, to consider the Council's reasons, when it was resolved that the Amendment be insisted on.

The House agreed to the report, and Motion was made to request a Free Conference respecting the Amendment, and naming five as the number of Managers by whom the House would be represented.

On January 12th, a Message was received from the Legislative Council granting a Free Conference, and naming time and place for holding the same.

It was at once moved that five Members named be appointed Managers of the House, but an Amendment was carried to the effect that the Managers be appointed by ballot.

The Managers, styled in the Journals the Conferees, attended at the time and place appointed, and, being returned, reported to the House that they had acquainted the Managers of the Council that the House insisted on its disagreement to a particular Amendment for the reasons heretofore given; that the House hoped the Council would recede from its Amendments to which the House had disagreed; that thereupon one of the Managers, on behalf of the others, expressed his opinion that, in the event of the House striking out a certain proviso, the Council would not insist upon their Amendment; that thereupon the Managers for the House delivered the Bill and Amendments to the Council.

A Message was then received from the Legislative Council not insisting on certain words in one of their Amendments, but insisting on disagreeing to the

insertion of certain words proposed to be inserted by the House in the Bill.

The Standing Orders were suspended, and the Message at once considered in Committee.

It was carried by the casting vote of the Chairman that the Amendment be insisted on. The report was brought up and adopted by the House.

Bill disposed of.

In this way the Bill was disposed of.

Subsequent action.

The House having passed, on January 7th, a resolution in favor of a Bill amending the Waste Lands Act of 1868-9, the Standing Orders were at once suspended, in consequence of the fate of the above Bill, and a Bill, giving effect to the resolution of January 7th, carried through all its stages, sent to the Council, and returned by them next day without amendments. After the receipt of the Council's Message, a summons was received from the Governor, and the House attended in the Legislative Council Chamber, when Parliament was prorogued.

PAPERS: ACCOUNTS, REPORTS, RETURNS.

As it is essential that Parliament should have access to Documents necessary for its information, so provision has been made for means whereby it can cause all such Papers to be laid before it, and printed and distributed for the use of Members. Access to documents. Means provided.

Accounts and Papers, as they are technically styled, may be laid on the Table of the House— Papers supplied.

(1) By a Minister, by command of His Excellency the Governor : By command.

(2) When received by Message from the Governor in compliance with an Address of the House : By Message.

(3) By a Minister, in return to an Order of the House : By Order.

(4) By a Minister, Pursuant to Statute. Pursuant to Statute.

A reference to the Index of each Session's Journal would show instances of every class of document which it is customary or necessary to lay before the House. A few examples will suffice— Examples of Papers under each method.

(1) Despatches :
Reports of Ministers furnished to the Governor :
Reports of Boards, Commissions, Conferences :
Special Reports of Government Officers :
Revenue, Expenditure, and Customs Returns :
Statistics, &c., are laid on the Table by a Minister, by command :

(2) Correspondence with the Imperial Government:

Despatches:

Reports of the Law Officers of the Crown, &c., for which an Address has been carried, are received by Message from the Governor:

(3) All Papers which are the proper subjects for an Order of the House, and which do not affect the prerogative, and are not provided for by Statute, are laid on by a Minister when the House has ordered them. The matters to which they refer are too numerous for example:

(4) Balance-sheets of Building Societies and Corporations, Corporation By-laws, Rules and Regulations under Acts, and the like, are laid on pursuant to Statute.

Other Papers Speaker.

In addition to the foregoing, a certain class of Papers are laid on by the Speaker. These refer to the Business of the House, and have been prepared in the offices of the House.

Instances of these are—

Reports of the Expenses of Select Committees of the Session:

Compilations by Officers of the House to the Order of the House, or without such Order, for the use and information of Members.

Papers quoted in debate.

Papers referred to or quoted in debate may also be laid on the Table on Motion of any Member.

Papers for Committee of Supply.

The Annual Estimates, Supplementary Estimates, Excesses on Votes, Loan Estimates, &c., are also forwarded by Message direct from the Governor. But these will be discussed under Supply.

Papers should be moved for only under the method applicable to them.

When a Member desires a Return he should be careful to ascertain whether the Return is of such a character as can be made to the Order of the House, or whether it is a proper subject for an Address to the Governor. For as it is irregular to seek to obtain by an Order of the House that for which an Address

should have been moved, so it is abandoning the privileges of the House to move an Address for that which the House has a right to order.

When prerogative involved, Address necessary.

The distinction is broadly set out by Standing Order 230, which prescribes procedure by Address "when "the Royal Prerogative is concerned."

Principle not always applied.

The application of the principle is not always clear, and cases may be found in the Journals where a very striking departure has been permitted. Returns connected with the administration of Justice unquestionably belong to that class which should be sought by Address.

Instances of Returns to Order of the House more properly subjects for Address.

But, on July 12th, 1882, the House ordered a Return, on Motion, for copies of all memorials, correspondence, documents, and papers relating to the committal, trial, conviction, and release of a prisoner of the Crown. In the course of the debate, the Attorney-General stated the position of the Governor in respect to the prerogative of mercy in capital and minor cases, and the practice usually followed; but no objection was raised to the papers being moved for as a Return to Order of the House instead of by Address. This is the more remarkable, as it was explained to the Member moving that, except in capital cases, the Governor was not bound to consult the Executive or any portion of the Government; while, in all cases, he had to act finally on his own judgment (V. & P., 1882, p. 61; cf. also *Hansard*, pp. 327, 328).

Again, on August 2nd, a Motion was moved for a Return of all cases in which the Royal Prerogative of Mercy had been exercised during the years 1879, 1880, 1881, 1882, showing, amongst other particulars, "when "released, upon whose recommendation, and whether "with or without the advice of the Executive Council." The Attorney-General urged that the effect of such a motion, if carried, was to reflect upon the exercise of the prerogative by the Governor, and the Motion, after debate, was withdrawn; but no objection was made that it was a proper subject for an Address, not for an Order (V. & P., 1882, p. 94; *Hansard*, pp. 533, 536).

On August 23rd, a Motion was made for "all papers "relating to the release of (certain) prisoners of the "Crown before the period of their sentence had "expired." On this occasion a lengthy debate arose, the Attorney-General, on Constitutional grounds, pro-

testing against such papers being produced, and the Motion was ultimately withdrawn; but again no objection was taken to moving by Order instead of by Address (V. & P., 1882, pp. 132, 157; *Hansard*, pp. 724-727, 739, 863, 864).

On June 27th, 1883, an Address was moved to the Governor, for papers relating to the release of certain prisoners, as had been done on December 3rd, 1868. In the former case, the Motion was withdrawn, the Attorney-General again opposing on Constitutional grounds. In the latter, the Motion was agreed to, the Attorney-General of the day shortly touching upon the Constitutional question, and obtaining the exception of "Minutes" from the papers sought (V. & P., 1883, p. 42; *Hansard*, pp. 276-278; V. & P., 1868, p. 178; *Hansard*, pp. 1027, 1028).

Proper subjects for Addresses are—

The Governor's Commission and Instructions:

Letters or Memorials of a Judge to the Secretary of State:

Opinions of the Law Officers of the Crown:

Despatches, &c.

Governor transmits Papers in compliance with Address.

When an Address for papers has been passed by the House, and carried by the Speaker to the Governor, the Governor replies by Message, in most cases complying with the Address. But, under certain circumstances, the Governor is unable to accede thereto.

Exception.

Despatches *in transitu* and Despatches prohibited by Instructions.

Thus, it would be improper to communicate copies of Papers or Despatches *in transitu* to the Secretary of State, and until the Secretary of State has replied (V. & P., 1870-71, pp. 119, 297); or any such Despatches as he is prohibited from publishing by the Rules and Regulations of the Colonial Office (C.O. List, 1884, p. 262). Cases may arise where the Governor does not comply in the first instance, but throws upon the House the responsibility of pressing for the Papers (V. & P., 1872, p. 373).

Copies, not originals, moved for.

Cabinet Minutes excluded.

In moving for Papers as Returns to the Order of the House, it is the custom to move for "copies," not originals; and if "Cabinet Minutes" are included, it is usual, on appeal from the Ministerial benches, to strike such words out.

If a Return be incorrect, the House will refer it back to the Minister, with a view to his laying on the Table an Amended Return (V. & P. 1864, pp. 48, 49); or, if the House deem it unsatisfactory, they will order the Officer making the Return to send it in a more satisfactory manner (V. & P., 1871, p. 188): or, if the House consider that the manner in which a Paper is laid on by a Minister is disrespectful to the House, the House will decline to receive the Papers, and will order they be returned to the Minister, which is done by the Clerk at the Table (V. & P., 1861, p. 22). If, on production of a Return, further information is desirable, the House will order a further Return on the subject (V. & P., 1879, p. 17).

Returns referred back for Amendment and declined.

It is customary, if a Minister has laid on a Return which he subsequently finds is imperfect or incorrect, for the House to give leave for the Paper to be cancelled, and a correct one substituted therefor.

Incorrect Return cancelled.

Plans referred to in a Bill may be laid on by a Minister independently (V. & P., 1876, p. 254); and Documents referred to in debate may be laid on, on Motion. These points will again be referred to under Bills and Debate.

Plans relative to Bills, and Documents in Debate.

PETITIONS.

Petitions at commencement of Business.

The ordinary daily Business of the House commences with the presentation and reading of Petitions *(vide ante*, p. 34).

By Petition the people are brought into communication with Parliament.

Division of subject.

In setting forth the practice as regards Petitions, it will be convenient to consider—

(1) The form of Petitions:

(2) The character and subjects of Petitions:

(3) Their presentation to Parliament:

(4) Subsequent action thereon.

Superscription, wording, and prayer of Petitions.

(1) Petitions should be superscribed—"To the "Honorable the Members of the House of Assembly "in Parliament assembled." A general designation of the parties to the Petition, or if there be one petitioner only his name, should follow, after this manner—"The humble Petition of the undersigned "[here insert the desiguation, *ex. gr.*, 'Farmers and "'Landowners,' or 'A. B.'] humbly sheweth."

The allegations, statements, and argument which the Petitioners desire to submit to the House follow in more or less detail, and are succeeded by what is called the "prayer," in which is expressed the object of the Petitioners, and the action they seek at the hands of the House. To this is added the words of form—"And your Petitioners, as in duty bound, will "ever pray."

Formal words of prayer.

Prayer essential.

The "prayer" is the essential part of the Petition, and without it the Petition will not be received.

Memorials.

The House does not decline to receive documents as Petitions which are headed "Memorials," so long as they are properly worded, and contain a "prayer."

Must be legible and in English, or with certified translation.

Petitions must be legible, and in the English language, or be accompanied by a translation, certified by the Member presenting.

Signed by persons themselves.

Exceptions.

They must be signed "by the parties whose names "are appended with their names or marks, and by no "one else, except in case of incapacity or sickness."—Standing Order 90.

Difference between practice of House of Assembly and House of Commons in case of incapacity.

This Standing Order is copied almost *verbatim* from "Rules, Orders, and Forms of Proceeding: House of "Commons." The difference will be found in the latter part. The Standing Order allows "an agent to "sign for a principal, in the case of incapacity *or* sick-"ness. The Imperial practice allows such signatures "only in case of incapacity *by* sickness."

Instances.

On November 8th, 1675, the House received a Petition without signature from Mr. Thomas Howard, a prisoner in the Tower. "But the Petition being not signed, by reason "of his incapacity to do it by sickness, the Lord "Morpeth, who delivered the Petition, asserted that he "received the Petition of Mr. Howard; and that he did "own it, and would have subscribed it if he had been "able, and desired it might be tendered in his name. "And the Petition being read, &c." (Commons Journals, vol. 9, p. 369).

But, on December 13th, 1826, a Petition from James Crosbie, "not being signed by the said James Crosbie, "but by his agent, Henry Young, the said Petition was, "with leave of the House, withdrawn" (Commons Journals, vol. 82, p. 118).

Signatures not to be pasted on or transferred to sheets; one at least on petition sheet.

The signatures must be written upon the sheets bearing or attached to the Petition itself, and not pasted upon or otherwise transferred thereto; and one person, at least, shall sign on the skin or sheet on which the Petition is inscribed.

Petitions from Corporations.

Petitions from Corporations must be under their common seal.

Only signatories recognised as petitioners.

Petitions are received only as the Petitions of the signatories.

If the Chairman of a Public Meeting signs a Petition on behalf of those assembled, or, if one or more persons

sign for any association, the Petition is received as of the individuals signing, and is so entered in the Journals.

No documents allowed, except in case of Private Bills.

No documents, except in the case of a Petition for a Private Bill, must be attached.

Proper language obligatory.

(2) Petitions must be in respectful language, and must not refer to any debate in Parliament.

The application of the Standing Order, 96, "Every "Petition shall be respectful, decorous, and temperate "in language," must be left to the House, as occasion arises. Generally speaking, it may be said that the House would not receive a Petition couched in language offensive to constituted authority, *ex. gr.*, the Governor, Parliament, the Bench, &c.

Subjects.

The subjects of Petitions are almost without limit. They embrace every question of Public Interest and individual grievance. A few instances will suffice.

Thus—

Examples.

Petitions have been presented against the return of a Member:

For polling-places:

For correspondence relating to an individual case:

For the amendment of an existing Act:

Against passing a Bill:

In favor of a Bill already before the House:

To repeal an Act:

To reconsider a resolution of the Committee of Ways and Means:

To postpone considering a Motion:

For Railway Extension:

For relief to a sufferer from losses caused by certain public works (flooding of drains):

For the appointment of a Select Committee (Free Education):

Against the recommendation of a Select Committee (on Electoral Districts Bill):

From an individual, for compensation and redress:

From an individual, to be heard at the Bar of the House:

(3) "Petitions can only be presented to the House "by a Member.

"A Member cannot present a Petition from him-"self."—Standing Orders 97, 98.

Duty of a Member in respect to Petitions.

A Member should acquaint himself with the contents of the Petition, to ascertain if it is regular, and in strict conformity with the rules of the House.

He must affix his name at the beginning, with the number of signatures.

Procedure on presenting Petitions.

In presenting a Petition, the Member states that he has to present a Petition from_____persons; that it is respectfully worded, and contains a prayer, the prayer being, &c.; and moves that it be received and read, or received only. No debate is allowed, the Question being at once put from the Chair. The Petition is then brought to the Table of the House by the Member, who hands it to the Clerk. If no informality appears, the Petition may be at once read by the Clerk, if so moved. But if there be any irregularity, the attention of Mr. Speaker is called to it, and the Petition returned to the Member.

Returned, if irregular.

A Member cannot present Petition from himself.

A Member cannot present a Petition from himself; but may petition the House, the Petition being presented by another Member (V. & P., 1877, p. 97).

Petition referring to Question before Chair, rule as to.

If a Petition refer to a Question before the Chair, it may be presented at the time the Motion or Order of the Day is called on; otherwise no Petition can be presented after Notices have been given.

Instance of violation of rule.

The Journals of 1868-9 present a striking case of infringement of the Standing Orders, touching Petitions on Questions before the Chair.

The House being in Committee on the Waste Lands Act Amendment Bill, a Motion was made by a Member for the House to resume, and progress to be reported, to enable him to present a Petition against the Bill. The House resumed, and the Committee obtained leave to sit again after a Petition against the Bill had been presented. The Petition was presented, received, and read; and the House again went into Committee on the Bill (V. & P., 1868-9, p. 68). On the next day, the Order of the House for receiving this Petition was read

and discharged, and the same Petition was presented at the usual time for presenting Petitions, and received. In the first instance, it should have been presented when the Order for Committee was read (p. 71).

And subsequent rescinding of action taken contrary to rule.

Printing Petitions, procedure.

If a Member desires that the Petition be printed, he gives Notice, at the time of Notices being given, that he will, on a certain day, move that the Petition presented by him on_____day be printed

In moving such Motion, when called upon, he must inform the House that he intends to take action thereon.

When a Petition has been presented by a Member, it is in order for any other Member to move that it be printed, Notice being given as usual (V. & P., 1874, pp. 7, 25).

Subsequent action.

If it is desired to take action on a Petition, it is competent to move, on Notice, "That Petition_____ presented on_____be taken into consideration, with a view of granting the prayer thereof (V. & P., 1881, p. 217).

A Petition may, on Notice of Motion, duly moved, be referred by the House to Mr. Speaker, if relating to matters within the Speaker's control (Petition of Mr. E. Ward, V. & P., 1868-9, p. 78).

Election and Private Bill Petitions.

Election Petitions have already been dealt with, and Petitions relating to Private Bills will be treated of in a later chapter.

NOTICES OF QUESTIONS AND NOTICES OF MOTION.

Notices.

After Petitions, Mr. Speaker calls upon Members for Notices *(vide ante*, p. 34).

Questions requiring Notice.

When a Member desires to obtain information from the Government on any public matter, which cannot be supplied at once, he gives Notice, in writing, of the Question he proposes to ask.

Time between Notice and asking.

As a matter of convenience, to allow the necessary time for the reply to be furnished, it is usual to provide that an interval of at least one day shall elapse between giving the Notice and asking the Question.

Irregular Questions, how dealt with.

In framing Notices of Questions, care must be taken not to transgress any of the Rules applying to Questions, otherwise they will be corrected, amended, or declined, as the Speaker may direct *(vide posthac*, Questions—Interrogatory).

Notice of Motion.

When a Member desires to bring any matter before the House at a future day, in order to give the House due notice of his intention, and to secure an opportunity of being heard, he gives Notice of Motion, similarly as in Questions.

Rules applying to Notices of Question and of Motion.

The following rules apply to Notices of Questions and Motions alike :—

Every Member must read his Notice aloud, and deliver at the Table a copy fairly written, giving the date proposed, signed by himself, and, in the case of Motions, by a seconder.

No Member may give two consecutive Notices, unless no other Member has any to give.—Standing Order 113.

Order in which Notices appear.

Notices are placed by the Clerk on the Notice Paper in the order in which they are received at the Table. For this purpose, each Notice is numbered as it is received.

Notice given by one Member for another.

A Member, by request, may give Notice for another Member, placing his own name and such other Member's on the Notice.

Notice postponed.

A Member may, subsequently, give Notice to postpone his Motion to a date later than that originally fixed, or may give an Amended Notice.

Limit of time when Notices are received; does not apply to receipt at Table.

Notices cannot be received after the House has proceeded to the Business of the Day.

This Rule applies to the receiving of Notices by the House, not by the Clerks at the Table. But Members would do well to remember that it is not the order in which they read their Notices to the House, but the order in which they are received and numbered at the Table, which governs their priority on the Paper.

QUESTIONS—INTERROGATORY; AND ANSWERS.

Questions—without and with Notice.

Questions seeking information may be put—

(1) Without Notice:

(2) On Notice, duly given and appearing on the Paper.

"At the time of giving Notices of Motion, Ques-"tions may be put to Ministers of the Crown, relating "to public affairs; and to other Members, relating to "any Bill, Motion, or other public matter connected "with the Business of the House, in which such "Members may be concerned."—Standing Order 114.

If it is not convenient to reply at once, it is customary to ask that Notice be given.

No debate allowed.

No debate is allowed to the Member putting or answering such Question.

Only Questions on Notice, and replies thereto, recorded.

Questions without Notice, and answers thereto, are not entered in the Journals.

Replies to Questions on Notice are handed, in writing, after being read, to the Clerks, for entry in the Journals.—See Standing Orders 115-118, *vide ante*, p. 35.

Questions may be postponed.

When Mr. Speaker calls on a Member to put his Question, he may ask that it should appear on the Notice Paper for a subsequent day.

> This is by no means uncommon, and is generally done at the request of Ministers when the official reply has not been received by the Minister of whom the Question is asked.

Question dropped.

If the Question is not put or postponed, it drops off the Paper.

A Member may ask a Question for absent Member.

A Member, by the leave of the House, and at the request of the Member in whose name the Question stands, may put the Question for such other Member; but he must state that he does so by request, otherwise the House refuses leave.

Questions referred to by number.

The more convenient practice of referring to the number of the Question on the Paper, instead of reading it at length, when putting it, is generally adopted, and saves valuable time.

Language of Questions.

The rule as to the language of Questions is very strict.

Limitation as to.

No argument or opinion shall be offered, nor any facts stated, except so far as may be necessary to explain such Question *(vide* Standing Order 115).

Objects of rule.

Limitation.

The object of this is to prevent the use of such language or statements, by means of a Question, which might lead to debate. Argument, opinion, inference, imputation, irony, hypothetical cases, reference to past debates of the same Session, are equally irregular. Facts, necessary to elucidate or explain, may be stated, but they must not be qualified in any way; nor must anything approaching a speech be attempted. Questions relative to matters outside the House, and not bearing upon any matter before the House; Questions seeking the opinion of the Government; Questions adverting to matters beyond the cognizance of the House, and those which deal with subjects which would properly be matters for Motions, are improper to be asked. Questions asking for statistical returns, or such detailed information as requires to be compiled from official records, should take the form of Motions for Returns. And of late years, Mr. Speaker has amended Questions asking "if the "Government will," &c., &c., by substituting the words "is it the intention of the Government to," &c., &c. (viz., take action in any direction), on the grounds that Ministers should not, at the request of a single Member, do that, or pledge themselves to do that, which the House might not approve, and which should be done on Motion. A Member can still ascertain, by Question, if the Government intend taking action; and, if not satisfied, can move the House on a later day. A

Member is not precluded from calling attention to paragraphs in the public press, relative to matters of public interest, with which Parliament may have to deal hereafter, with a view to eliciting information as to action, or intended action, of the Government thereon.

A Question cannot be amended by the Member when asking it. Amendment not allowed.

The reason is obvious. A Minister comes prepared with a written answer to a Question on the Paper, and is not prepared for an alteration of such Question.

Questions may be made Orders of the Day (V. & P., 1875, p. 42).

The rule which prohibits debate is equally applicable to answers to Questions. No debate in replying.

An answer should be confined to the points of the Question, with only such explanation as is necessary to render the answers intelligible. More latitude is given, by courtesy, to a Minister than to a private Member, in replying; but a Minister should avoid expressions which call forth observations from other Members, and excite debate. But in certain cases, *ex. gr.*, where the liberty of the subject is concerned, as Parliamentary usage sanctions minute inquiries, a corresponding latitude is allowed to a Minister, who may enter into all details necessary to answer the Question. Limits to be observed in answers.

When a Question has been put and answered, it cannot be renewed, nor can comment or debate take place on the answer. But any Member is at liberty to put a further Question, arising out of the answer given to the Question, but must not enter into a discussion. Question cannot be renewed when answered, but further Question on answer allowed.

A Minister may decline to answer a Question, when he conceives it would be prejudicial to the public interest, or might involve argument and debate, to answer it (V. & P., 1866-7, p. 22; 1869-70, p. 109). Minister may decline to answer.

If the House considers a reply unsatisfactory or objectionable, it orders the reply not to be entered in the Journals, but to be handed back to the Minister by the Clerk (V. & P., 1863, pp. 137-8). House returns answer in certain cases.

A reply has been given to a Question on the Paper, in the absence of the Member in whose name it stood, Answer given in absence of Member.

and without the Question being put, and the reply entered in the Journals (V. & P., 1860, p. 114).

Limit of answer by private Member.

A private Member, replying to a Question as to his intentions with regards to a Bill, cannot give the reasons for the course his reply indicates; nor can he explain the provisions of such Bill.

MOTIONS AND QUESTIONS.

A Motion is a proposition submitted to the House for its consideration by a Member, who is said to "move the House," or "make a Motion." Motion, definition of.

When such Motion has been duly made and seconded, it is proposed from the Chair; and is then said to be the Question before the House. Motion becomes Question.

Motions are divided into two classes— Classification of Motions.

(1) Motions without Notice:

(2) Motions on Notice, *i.e.*, for which Notice has been given, and entered on the Notice Paper.

(1) Certain Motions, without Notice, are always in order, being of a character which of itself precludes Notice, and which are not subjects for discussion, *ex. gr.*— Certain Motions always in order.

Motions— Examples.

"That the House do now adjourn":

"That this Debate be now adjourned":

"That the House do now divide":

and corresponding ones in Committee—

"That the Committee do now divide":

"That the House resume":

"That the Chairman leave the Chair":

are always in order, if made without interrupting a Member when speaking, and are at once put from the Chair, no discussion being allowed thereon.

The Motion, "That the House do now adjourn," cannot be made or seconded during a debate by Members who have spoken to the Question; and, if the Motion be negatived, no new Motion for adjourn- Limitation as to Motion "That House do now adjourn," and as to "That House do now divide."

ment can be entertained within a quarter of an hour from the preceding one.—Standing Orders 46 and 47.

The Motion, "That the House do now divide," if negatived, cannot be moved again until a quarter of an hour after the preceding Motion to divide shall have been negatived.—Standing Order 169.

Motion to adjourn debate, practical limitations as to.

The Standing Orders do not directly prohibit a Member who has spoken from moving the adjournment of the debate, but they do so indirectly by giving preaudience, on resumption, to the Member on whose Motion the House is adjourned, and by allowing the mover and seconder of such Motion, if negatived, to address the House at any time during such debate.—Standing Orders 161, 162, 163.

Nor, again, do the Standing Orders fix a limit of time within which another Motion to adjourn the debate cannot be made. All these Motions, however, are more or less what may be termed Dilatory Motions; and the spirit of the Standing Orders, which prohibits debate upon them, is opposed to their being turned to purposes of obstruction, and is far more stringent than the Imperial practice.

Motion for irregular adjournment.

The Motion, without Notice, for the adjournment of the House to some irregular time, with a view to bring some matter of urgency before the House, has already been dealt with *(vide ante*, p. 35).

Suspension of Standing Orders for Motion without Notice.

The House will always agree to the suspension of the Standing Orders, to enable a Motion to be made without Notice, if circumstances demand it.

Motions on Notice.

(2) Notice is given of Motions on important subjects, which a Member desires to have discussed, and on which he seeks to elicit the opinion of the House, with a view to future action, should the House resolve the Question in the affirmative.

Notice, why given.

Motions put from the Chair.

No Motion is regularly before the House until it has been read from the Chair, when the House is said to be in possession of it.

Subsequent proceeding.

The Question, as it is then termed, may be debated, affirmed, negatived, amended, postponed, withdrawn, or superseded.

If there is any irregularity in the Motion—if, for instance, it seeks to renew a Question already decided by the House in the same Session, or anticipates Business already on the Paper, or requires the previous consent of the Crown—the Speaker would call attention thereto, and, if necessary, decline to put it. Irregular Motions.

When Mr. Speaker calls upon a Member to propose the Motion standing in his name, the Member, if present, rises in his place and moves it, at greater or less length. Speaker calls upon a Member.

Certain Motions are, by custom, moved without debate, *ex. gr.*, Motions for printing Petitions, for leave of absence to Members, and, occasionally, Motions for Returns and polling-places, when communications have passed between the Member and the Government, and no opposition or delay is offered. Motions not debated in certain cases.

A Member may, on being called on, ask that the Notice of Motion stand on the Paper for a later day, or that it be an Order for a future day, or may, by retaining his seat, decline to proceed with it. He may proceed to move it in its present form, or ask leave of the House to amend it, and then move it in amended form. If absent, another Member may move it for him, by leave of the House, and at his request, which must be stated to the House, as, without such request, one Member cannot move for another. How a Motion may be dealt with when called on.

In the Imperial Parliament, a restriction is placed on this practice. By courtesy, a Member is permitted to make formal Motions, as for unopposed Returns, for another Member; but the rule does prevail in regard to important and controverted Questions. If any Member objects to a Motion so moved, Mr. Speaker holds the objection good (Cf. Denison's Decisions, pp. 134, 135; May, p. 296, 9th ed.). Ministers, however, enjoy a latitude in this respect not accorded to private Members. Restriction in Imperial Parliament as to Member acting for another.

If the Member rises and proceeds with his Motion, he concludes his remarks by formally proposing it.

The Motion must be at once seconded by some other Member, whereupon Mr. Speaker puts the Question in the words of the mover. Motions seconded, and then put.

Failing seconder, Motions not entertained.

If there is no seconder, it is immediately dropped, and the matter, technically, has never been before the House, and is not entered in the Journals, which deal with *res gestæ* only.

When debate arises.

If read by the Speaker, and put to the House, the House is now in possession of the Question, and must dispose of it in some one of the ways mentioned above. At this stage the debate upon the Question arises. If there is no prospect of closing the debate in the same sitting, it is usual for some Member to move the

Adjournment of debate.

adjournment of the debate, which being carried, the mover of the Question is, by courtesy, allowed to fix the date when the debate will be resumed. The adjourned debate then becomes an Order for that particular day.

Amendment of Question.

The Question, when once in possession of the House, is open to Amendment, but this will be discussed in the following chapter.

Motion withdrawn.

If a Member feels that he has accomplished his purpose by the subject having been debated, and that the Question might be negatived on a Division, he asks leave to withdraw the Motion, and the House generally consents thereto.

May be renewed.

A distinct expression of opinion is thus evaded, and the Motion may be made again during the same Session.

Leave to withdraw must be unanimous.

Mr. Speaker takes the pleasure of the House by asking, "Is it your pleasure that this Motion be with-"drawn?" when, if no dissentient voice is heard, the Motion is withdrawn. If there is any opposition, the Question must be put.

Member may withdraw for another.

A Member, who has moved a Motion for another, has been allowed to withdraw such motion, after debate (V. & P., 1865-6, p. 234).

Amendment must be withdrawn before Motion.

When an Amendment has been proposed to a Motion, the original Motion cannot be withdrawn until the Amendment has been first withdrawn or negatived (V. & P., 1865-6, p. 234).

Proposer of Amendment alone withdraws.

An Amendment cannot be withdrawn in the absence of the proposer thereof.

"The House may order a complicated Question to "be divided."—Standing Order 180. Complicated Question divided; not of right, but on Motion.

No Member has a right to insist upon the division of a complicated Question, but he may move the House for that purpose. The object of this is that a Member may express free assent or dissent to any part thereof.

Thus, on October 25th, 1876, on the Question that the Report of the Mineral Licences Committee be agreed to, it was ordered, on Motion, that the Motion, being a complicated Question, be divided. And the paragraphs of the Report, ten in number, were put *seriatim*. Paragraphs 1 to 4 were agreed to; 5, amended and agreed to; 6, agreed to; 7, negatived; 8, agreed to; 9, negatived; 10, agreed to (V. & P., 1876, pp. 288-90. Cf. also V. & P., 1863, p. 163; 1864, p. 63; 1868-9, pp. 143, 144; 1869-70, p. 99). Instance.

"When several resolutions are proposed, each is the "subject of a separate Question" (May, p. 310, ed. 9th). Separate Question on each resolution.

When the debate is closed, the Speaker, rising from his chair, states the Question to the House, prefacing it with the formula, "The question is that, &c." Question finally put.

"Every Question, when agreed to, assumes the form "either of an Order or a resolution of the House. "By its Orders, the House directs its Committees, its "Members, its Officers, the order of its own proceed-"ings, and the acts of all persons whom they concern; by its resolutions, the House declares its own opinions and purposes" (May, p. 315, ed. 9th).

Contingent Motions, as their name implies, are Motions to be moved contingent on some Question being before the House, not at any fixed date. They may refer, for instance— Contingent Motions.

(1) To the conduct of the Business in reference to any Bill or Question: As to Business.

(2) To some matter which a Member desires to bring before the House: As to matters of importance.

(3) To Amendments to any Bill or Question. As to Amendments.

Thus—

Contingent Motions to suspend Standing Orders in respect of Bills.

(1) Towards the close of Session, or at any time when expedition is necessary, it is a frequent practice to give notice to suspend the Standing Orders, contingent on any stage of a Bill or other matter, to enable the House to make progress in a way not permitted by the Standing Orders.

In respect of Bills, it has been moved—

(a) Contingent on the first reading of a Bill:

(b) Contingent on the second reading:

(c) Contingent on the report:

(d) Contingent on the report being agreed to:

that the Standing Orders be suspended, to enable the Bill to pass through its remaining stages without delay.

Messages from Council.

Similar Motions are made, contingent on the receipt of any Message from the Legislative Council, to enable the Message to be at once considered.

Ways and Means.

So, also, with respect to resolutions from the Committee of Ways and Means, to enable Loan Bills to be brought in at once, and passed through all stages.

Supply.

So, also, with respect to resolutions from the Committee of Supply, to enable the report to be at once adopted, and all further proceeding taken for Supply Bills, or the Appropriation Bill, being passed *(vide* V. & P. *passim)*.

To delay Bills.

A Contingent Notice may also be given, to delay proceeding with a Bill beyond a certain stage—

Instance.

> Thus, the Notice Paper of July 5th, 1883, has a Notice—"Contingent on the second reading of the "Pastoral Leases Bill being carried—That the Bill be "not further proceeded with until the Returns ordered "by this House on June 13th, in connection with this "subject, be laid upon the Table, and be printed."

To recommit.

or to recommit a Bill, or the resolutions of a Committee of the Whole House.

Contingent Motion, Supply and Ways and Means.

(2) On the Motion for going into Committee of Supply or Ways and Means, it is competent for a Member to bring any matter before the House. If he deem the matter of sufficient importance, and desires

that Members be acquainted beforehand therewith, the practice is to give Notice that he will move in respect thereof, contingent on the Motion that the House go into Committee.

As to Amendments.

(3) If a Member seeks to offer any Amendment to a Bill or other Question, and desires that due publicity be given thereto, he makes such Amendment the subject of a Contingent Notice.

Thus—

On Bills, second reading.

Notice may be given, contingent on the second reading of a Bill being moved, to strike out all the words after "That," with a view to insert the terms of a resolution in lieu thereof (V. & P., June 27th, 1883).

On Bills, in Committee.

Notice may be given of Amendments, of whatever nature, to be moved in Committee on a Bill.

On resolutions of Ways and Means.

Of Amendments to resolutions proposed in the Committee of Ways and Means.

Such Notices placed at end of Paper.

Contingent Notices are placed at the foot of the Notice Paper; and those relating to a particular Question are grouped together for convenience.

Priority not given thereby.

It must be remembered that giving Notice of an Amendment does not give a Member priority or precedence over another Member who rises before him to speak to the Question or to propose an earlier Amendment.

AMENDMENTS.

Amendments to Questions.

A Question having been proposed from the Chair may be amended.

As it is the right and privilege of every Member to place his views on record, and to elicit an expression of the opinion of the House thereon, so, if he differs, wholly or in part, from the Question proposed, but would agree to such Question, if altered or modified in any way, means are provided for offering Amendments to such Question.

Modes of Amendment.

Questions are amended—

(1) By leaving out certain words only:

(2) By leaving out certain words, in order to insert, or add, other words:

(3) By inserting or adding words.

Notice not necessary, but more convenient in certain cases.

Notice of Amendment is not necessary; but when the Amendment involves a principle, and strikes directly at the original Question, either with a view to present an alternative proposition, or to defer to a remote date the consideration thereof, it is more convenient to give Notice.

Only Member giving the Notice can move the particular Amendment.

When Notice has been given, it can only be moved by the Member in whose name it stands upon the Paper. In such a case, it is not competent for another Member to propose, as his own, an identical Amendment *(vide ante*, Contingent Motions; also Brand's Decisions, Session 1881, pp. 5, 6).

Amendments, how put from the Chair; and Question finally put.

(1) When the proposed Amendment is to leave out certain words, the Speaker states the original Question at length, and adds "Since which an Amendment has "been proposed to leave out the words_____ "The Question I have to propose is—That the words

"_____proposed to be left out stand part of "the Question."

This is resolved by the House in the affirmative or negative, as the case may be.

If in the affirmative, and no subsequent Amendment is offered, the Speaker puts the Question in its original form.

If in the negative, the House has thereby rejected the words from the Question, and, if no subsequent Amendment is proposed, the Speaker puts the Question in its amended form.

(2) When the proposed Amendment is to leave out certain words, in order to insert, or add, other words, the initial procedure is as before.

If the House resolve in the affirmative, viz., that the words stand, the Amendment is disposed of.

If in the negative, another Question is proposed—"That the words of the Amendment be inserted," or "added," "instead thereof."

If this Question is resolved in the affirmative, the words are inserted, or added, as the case may be.

The main Question, so amended, is then put by the Speaker.

Mutilated Questions, how dealt with.

It may happen, however, that a majority is equally opposed to the original Question and to the Amendment, which might be to strike out all the words after "That," with a view to add other words; and thus the Question would ultimately be reduced to the initial word "That," which must always be retained.

If no other Amendment is proposed, the Speaker would call upon the next Business on the Paper.

Imperial practice.

This is the procedure in the House of Commons. Sir T. E. May, in his "Parliamentary Practice," quotes not a few instances from the Journals of the House of Commons of Questions so mutilated. The Imperial practice is the only one possible under such circumstances when there is no Question left upon which the House can pronounce judgment.

It may also happen that a Motion may be so mutilated and left blank, even without striking out all the

words after "That," that the House is equally without matter for decision, which can be put from the Chair.

Thus, on July 13th, 1860, it was moved,—"That, "considering the necessity there exists for endeavoring "to make the Dry Creek Stockade, as far as possible, "a self-supporting establishment, by making available "the labor of the prisoners in preparing road metal "at the Stockade stone quarries, this House is of "opinion that the Corporations of the City of Adelaide "and of Port Adelaide, and those District Councils "within convenient distance of the Stockade, should "in future be required to take road metal from the "Dry Creek Stockade to the extent of one-half the "amount of money they may be entitled to receive "from the annual vote-in-aid of rates, at such price "as may be agreed upon between the respective autho-"rities."

An Amendment was moved to strike out all the words after "opinion," with a view to insert other words instead thereof. The words were struck out, but the words proposed to be substituted were not inserted. The Question remained in a mutilated form: "That, considering, &c., &c., this House is of opinion," and was so put to the House and negatived (V. & P., 1860, p. 102).

This also is in strict accordance with Imperial practice. On July 2nd, 1872, a parallel case will be found in the Journals of the House of Commons in respect of a Motion for an Address to Her Majesty for the appointment of a Commission on the Revenues, &c., of the Established Church. The main Question as amended was put in its mutilated form to the House and negatived.

(3) When the proposed Amendment is simply to insert or add words, the Question is put, that such words be added or inserted. If carried, the main Question, so amended, is then put. If negatived, it is put as originally proposed.

Restrictions on Amendments.

Several Amendments may be moved to the same Question. Restrictions, however, are imposed.

Thus—

No Amendments can be proposed to a Question—

(1) If a later part has been amended:

(2) If a later part has been proposed to be amended—if a Question has been proposed from the Chair for such Amendment—unless the proposed Amendment has been by leave of the House withdrawn:

(3) If the House has decided that certain words shall stand part of a Question, it is not competent to amend them, but words may be added thereto:

(4) If the House has inserted or added words to a Question, such words may not be amended, as that would be to disturb the decision of the House. But other words may be added, provided they be not of the same effect as words already omitted by Amendment.

Order in which Amendments should be offered.

Amendments should be offered in the order in which they will stand in the amended Question. If, therefore, a Member in possession of the House offers an Amendment, it is customary for any other Member who seeks to amend an earlier part to intimate his intention before the first Amendment has been proposed from the Chair. Otherwise the first Amendment must be, by leave, withdrawn to enable the Amendment offered later in the discussion to be moved.

It is in Committee of the whole House that Amendments are most frequently offered, and the greatest difficulty is at times experienced in arranging so that no Member shall be deprived of an opportunity to bring forward his Amendment.

Amendments on Amendment.

"Amendments may be proposed to a proposed "Amendment, as if such proposed Amendment were "an original Question."—Standing Order 195.

Various modes.

Any Amendment, therefore, is, like a Question, open to Amendment by—

Omission of words:

Addition:

Variation.

Procedure.

New Question practically raised; original laid aside *pro tem.*

As a proposal to amend an Amendment introduces a fresh subject for consideration, the new Question thus created must be disposed of by itself. It becomes, in fact, a substantive Motion, on which an Amendment is offered. The original Question is, for the time, laid aside until this new Question is settled. All confusion is thus avoided, the ultimate adoption of the first Amendment not being proposed until it has assumed that form in which the House is prepared to accept it as an Amendment to the original Question.

Amendment to an Amendment, to insert, add, or omit words.

When the original Amendment to the Question before the House is to insert, add, or omit words, an Amendment to this Amendment may be proposed at once without reference to the Question, which will be dealt with when the Amendment is disposed of.

Procedure in first two cases.

When the original Amendment is to insert or add words, an Amendment thereto presents no difficulty.

Procedure on third case.

When the original Amendment is to omit words in the Question, an Amendment to leave out some of the words proposed to be omitted by the first Amendment presents some difficulty. Such an Amendment in effect restores words to the original Question.

The following is the procedure—

A Question is put—That the words proposed to be omitted (by the original Amendment, *scil.)* stand part of the proposed Amendment.

If this Question is carried in the affirmative, the original Amendment stands unamended, and the Question is then put—That all the words proposed to be omitted by the first Amendment stand part of the original Question.

If the Question—That the words proposed to be omitted (by the original Amendment, *scil.)* stand part of the proposed Amendment be negatived, the Amendment is thereby amended and the Question is then put —That the words comprised in the Amendment so amended stand part of such original Question.

Amendment on Amendment to leave out words, and

But where the original Amendment is to leave out certain words of the Question, with a view to insert or

add other words, and it is desired to move an Amendment to the words proposed to be substituted, the procedure differs. In this case the main Question is not at once laid aside, but the Question is put—That the words proposed to be left out (in the original Question, *scil.*) stand part of the Question. If the House resolves this in the negative, a Question is then put for inserting or adding the words of the Amendment, when an Amendment may be moved thereto.

insert others in lieu, in original Question.

Procedure.

Instance.

The illustration of this procedure, given in May's Practice, is so simple and intelligible that it may be well to quote it here—

"Let the simple Question be—'That this Bill be *now* "'read a second time'; to which an Amendment has "been proposed by leaving out the word 'now' and "adding 'upon this day six months'; and let the "Question, that the word 'now' stand part of the "Question be negatived, and the Question for adding "'upon this day *six months*' be proposed: An Amend-"ment may then be proposed to such proposed Amend-"ment, by leaving out 'six months,' and adding 'fort-"'night' instead thereof.

"The Question will then be put—'That the words "'six months'" stand part of the said proposed Amend-"ment.' If that be affirmed, the Question for adding "'this day six months,' is put; and, if carried, the "main Question, so amended, is put, viz.:—'That this "'Bill be read a second time this day six months.'

"But if it be resolved that 'six months' shall not "stand part of the proposed Amendment, a Question is "put that 'fortnight' be added; and if that be agreed "to, the first Amendment so amended is put, viz.— "That the words 'this day fortnight' be added to the "original Question. That being agreed to, the main "Question, so amended, is put, viz.—'That this Bill be "'read a second time this day fortnight'" (Practice of Parliament, pp. 324, 325, 9th ed.).

Several Amendments may be moved in succession to a proposed Amendment; but the same rules which apply to Amendments to Questions are observed.

Several Amendments.

An Amendment to a proposed Amendment, which is of the nature of a substitution, and has the practical effect of leaving out all the words of the proposed

Amendment of the nature of a substitution.

Amendment, cannot be moved. It is, in fact, an Amendment to the main Question, and cannot be proposed until the first Amendment be negatived.

Relevancy of Amendments.

The Question of the relevancy of Amendments is not without difficulty.

It is laid down by May, that "An Amendment should "be relevant to the Question to which it is proposed to "be made" (May, Practice of Parliament, p. 325).

Several decisions support this rule.

Instances of irrelevant Amendments refused (Imperial Parliament).

Thus, on a Motion for the Committee on a Bill to sit again to-morrow, an Amendment—"That the House, "at its rising, do adjourn until a quarter before four "o'clock to-morrow," has been refused by the Chair, as unsuitable and not relevant to the Question (Denison's Decisions, pp. 12, 13; also, Brand's Decisions, 1872-1880, pp. 14, 15).

An Amendment for an Address to the Crown for a free pardon, on a Motion declaring a person incapable of being elected or returned as a Member, has been refused as inadmissible, having no relation to the Question before the House.

And on the second reading of the Prevention of Crime (Ireland) Bill, an Amendment, consisting of paragraphs describing the state of Ireland, was held to be irrelevant. But the concluding paragraph, declaratory of evil consequences likely to arise from the passing of the Bill, was ruled to be competent to be put (Brand's Decisions, Session 1882, p. 7).

On a resolution—"That Mr. Bradlaugh be not per-"mitted to go through the form of taking the oath "prescribed by" certain Statutes specified, an Amendment was permitted affirming the desirability of amending those Statutes in a certain direction (*Ibid.* p. 8).

Orders of the Day; relevancy of Amendments.

In the case of an Order of the Day, relevancy is specially enforced.

Amendments to evade original Question.

Notwithstanding this, the undoubted later practice of Parliament, Sir Erskine May has still left on record, and as within the range of usage, the moving of Amendments whose object it is to evade an expression of

opinion on the main Question by entirely altering its meaning and purpose. This may be done by striking out all the words after "That" at the beginning of a Motion, and substituting others of a directly opposite import. In this case the House expresses no opinion directly upon the main Question, but the sense of the House is taken upon, practically, a new Question.

Procedure.

New Question thereby submitted.

There are several precedents in the Journals of the House of Commons of this mode of dealing with a Question, the most notable, from an historical point of view, being those connected with Mr. Pitt's Administration and the peace of Amiens, in 1802.

Instances in Imperial Parliament of Amendments, by which the main Question is evaded and an entirely new Question of an opposite character submitted to the House.

On May 7th, 1802, an Address was moved, expressing the thanks of this House to His Majesty for having been pleased to remove the Right Hon. William Pitt from his Councils.

An Amendment was proposed to leave out from the word "That" (an humble Address, viz., &c.) to the end of the Question, in order to insert these words—"It is the opinion of this House that by the wisdom, "energy, and firmness of His Majesty's Councils during "the late arduous contest, supported by the unparalleled "exertions of our fleets and armies, and by the magna-"nimity and fortitude of the people, the honor of this "country has been upheld, its strength united and con-"solidated, its credit and commerce maintained and ex-"tended, and our invaluable Constitution preserved "against the attacks of foreign and domestic enemies," instead therof. This Amendment was carried.

After which a new and direct Question was proposed on Motion and carried—"That the Right Hon. William "Pitt has rendered great and important services to his "country, and especially deserves the gratitude of this "House."

Again, on May 13th, a long declamatory Address, condemning the treaty of Amiens was moved, to which an Amendment was proposed and carried, leaving out all the words after "That" in the second paragraph (the first paragraph being of the nature of a preamble) to the end of the Question, and inserting a new Address justifying the treaty (Commons Journals, vol. 57, pp. 419, 420, and pp. 449, 450, 455-457).

Later instances occur in the Journals of March 19th, 1867, when a Motion for an Address to Her Majesty for the removal of Mr. Churchward from the Commission

of the Peace for the Borough of Dover was amended by striking out all the words after "Removal of" and adding "All persons in the Commission of the Peace," &c., &c., guilty of corrupt practices at elections.

And in the Journals of May 20th, 1878, May 21st, and May 23rd, when, on a Motion against the employment of Indian troops in Europe, an Amendment was proposed and carried, leaving out all the words after the initial "That," and declining by any resolution to weaken the hands of Her Majesty's Government (Cf. Commons Journals, *loc. cit.;* also May's Practice of Parliament, pp. 305, 306).

Relevancy can only be decided by Mr. Speaker on the merits of each case as it arises.

Although the Amendments substituted for the original Question were directly opposite thereto, it can hardly be said that they were irrelevant to the Question before the House. It would not be easy to lay down precise rules by anticipation for what constitutes relevancy. Such points can only be decided as they arise, and must be left to the discretion of Mr. Speaker.

QUESTIONS—SUPERSEDED.

Direct ways of evading Question.

Questions may be said to be evaded or superseded by a certain class of Amendments, which have been dealt with in the preceding chapter, but there are other and more direct ways of attaining this object.

A Question may be superseded—

By Adjournment of House.

(1) By the Adjournment of the House, either on the Motion of a Member, "That the House "do now adjourn," or on notice being taken, and it appearing that a Quorum of Members is not present.

By reading Orders of the Day.

(2) By a Motion, "That the Orders of the Day "be now read."

By previous Question.

(3) By the previous Question.—Standing Order 174.

Motion that House do now adjourn.

(1) In the midst of a debate, a Member who has not spoken to the Question may move, "That the House "do now adjourn," and this must be seconded by another Member who has not spoken. Such a Motion cannot be made while a Member is speaking. It is put at once from the Chair without discussion. It is a distinct Motion, not an Amendment to the Question, and itself admits of no Amendment.

Cannot be amended.

Effect, if carried.

If carried, the Question is superseded, all business for the day is at an end, and the House at once adjourns.

No Quorum.

The want of a Quorum produces the same results.

Effect of Motion to read Orders of the Day

(2) If a Motion be made and carried, "That the "Orders of the Day be now read," the House must at once proceed with the Orders of the Day, thus superseding the original Question.

This applies to a Notice of Motion or other Question under discussion, and is, like the former, a distinct Question, not an Amendment. If the House were engaged upon the Orders of the Day, such a Motion would be inadmissible from its very nature.

Amendment to an Order of the Day.

It is, however, competent to move, as an Amendment to a particular Order of the Day, "That the other "Orders of the Day be now read," or that a particular Order of the Day be read, the Amendment being put in the usual way as an Amendment. The adjournment of the House supersedes a Question for reading the Orders of the Day.

Previous Question.

(3) The object of the previous Question, as well as that of the analogous Motion for reading the Orders of

Object of.

the Day, is to withhold a Motion from the Vote without such interferenee to the course of business as is caused by a Motion, "That the House do now "adjourn."

How put.

The previous Question is put in the form—

Restrictions.

"Shall this Question now be put?"

It cannot be moved in Committee.

It cannot be moved on an Amendment.

May be debated.

The previous Question may be debated, and the debate thereon adjourned.

No Amendment after previous Question.

No Amendment can be proposed to the original Question after the previous Question has been proposed by the Speaker, unless the previous Question be first withdrawn.

No Amendment to previous Question.

No Amendment can be proposed to the previous Question, which, in this respect, stands in the same position as the Question, "That the House do now "adjourn."

Cannot be moved after Motion for reading Orders of the Day.

When a Motion has been made for reading the Orders of the Day to supersede a Question, the House will not entertain a Motion for the previous Question, as the former Motion was of the nature of the previous Question (May, Parliamentary Practice, p. 305).

Effect, if carried.

If the previous Question be carried, *i.e.*, if the actual Question, "Shall this Question now be put?"

be decided in the negative, the House proceeds to the next business.

If the previous Question be lost, *i.e.*, if the Question as put be decided in the affirmative, the original Question is at once put without further Amendment or debate. If lost.

A Motion, that the House do now adjourn, cannot be interposed between the negativing the previous Question, *i.e.*, ordering that the Question be now put, and putting the Question; but it may be moved after the previous Question has been proposed, which is superseded if the adjournment be carried, unless the debate thereon has been previously adjourned. If lost, original Question must be at once put. Motion for Adjournment after previous Question proposed.

A Question superseded by the previous Question may be brought on again, on Notice, on a subsequent day. Question superseded and revived.

When a Question consists of a series of resolutions, although an understanding has been arrived at that the Question shall be put on such resolutions *seriatim*, the decision of the previous Question, before putting the Question on the first of such resolutions, shall be conclusive as regards the whole of such resolutions.—*Vide* Standing Order 178. Series of resolutions. Previous Question.

It will be observed that those who move and support the previous Question vote against the Motion as it is put from the Chair. In fact, to carry out the views with which they make the Motion, they vote against it. Peculiarity of voting on previous Question.

In the Congress of the United States, the previous Question is put in the form—"That the main Question "be *not* now put." According to Palgrave, there is a precedent in the Journals of the House of Commons of 250 years ago of the previous Question being put in the form—"That the original Question be *not now put* (The Chairman's Handbook, p. 80, sixth ed., 1884). Previous Question in Congress, U.S.

SAME QUESTION TWICE OFFERED.

The same Question not to be again proposed.

"No Question shall be proposed which is the same "in substance as any Question which, during the same "Session, has been resolved in the affirmative or nega- "tive."—Standing Order 184.

Resolution or or vote may be rescinded.

"A resolution or other vote of the House may be "read and rescinded; but no such resolution or other "vote may be rescinded during the same Session, "except with the concurrence of an absolute majority "of the whole House, and after seven days' notice."—Standing Order 185.

Object of rules.

The object of these Standing Orders is self-evident.

The first is framed to avoid contradictory decisions, to prevent surprises, and to provide something like finality. Otherwise the same Questions might be brought forward again and again, and affirmed and negatived, according to chance majorities.

The object of the second is to save the House being bound by a hard and fast rule to decisions which may have been arrived at in error, or which, from whatever cause, it would be impolitic to enforce. By insisting upon an absolute majority and due notice, the House cannot be taken by surprise, or asked to undo what it has done by an ordinary majority, which would suffice for other Questions.

Question of identity settled by Speaker or by the House.

Ordinarily, the decision of the Chair will be accepted as to the identity of Questions, but doubtful cases may arise, when the Speaker will direct the attention of the House to the matter, and the House will itself decide, on Motion made and Question put.

Thus—

Instances.

On July 31st, 1863, Mr. Lindsay, pursuant to Notice, moved that the House, on August 5th, resolve

itself into a Committee of the Whole, to consider an Address to the Governor for £6,000, for roads to the Northern Mines, and providing water thereon. But a Motion for £10,000, for the same purpose, having been negatived on June 24th preceding, the Motion was not put *(vide* V. & P., 1863, p. 157).

So, on November 3rd, 1869, Mr. Hay moved—"That he have leave to bring in a Bill to amend the "Main Roads Act." But the Speaker reminded the House that the same Motion had been negatived on October 8th preceding, and the Question was not put (V. & P., 1869, p. 169).

Again, on October 23rd, 1874, the House being in Committee of the Whole, a Motion was moved which, in the opinion of the Chairman, was the same as one negatived previously on September 23rd; and the mover ultimately acquiescing, the House resumed without Question (V. & P.. 1874, p. 387).

On December 15th, 1858, the Speaker's attention being called to a Motion of October 22nd, which had been negatived, and its identity with that under discussion, the Speaker left the matter to the decision of the House. Motion was at once made, and Question put—"That the Motion under discussion is not 'the "'same in substance' as one negatived by this House "this Session, and may therefore be put." Whereupon the House, on Division, affirmed the Question (V. & P., 1858, p. 201).

On November 29th, 1865, the House being in Committee, on a Motion, a question arose whether the Motion was not the same in substance as the Question decided in Committee of the Whole House on November 15th preceding; but the Chairman being of opinion that the Questions were not the same in substance, the House, on Motion, resumed, that the matter might be laid before the Speaker. The Speaker, in reply to a Question put upon the point that had arisen in Committee, was of opinion that the two Questions were not the same in substance, but that it

was a matter to be decided by the House. The House, on Motion, decided that the Question was the same in substance as that already decided (V. & P., 1865-6, p. 81).

Again, on December 10th, 1873, Mr. Speaker's opinion being asked whether a Question was the same in substance as one decided on October 29th last, and Mr. Speaker being of opinion that it was, a Motion to that effect was moved, which, after debate, was, by leave, withdrawn—the Order of the Day being read and discharged (V. & P., 1873, p. 264).

Practice in respect of proceedings on Bills.

In respect of Bills, *i.e.*, the proceedings upon and in relation to their passing, the practice of Parliament admits greater freedom. The object of different stages is to afford the opportunity of reconsideration. Hence, as laid down by Hatsell (2 Hatsell, 135), "in every "stage of a Bill every part of the Bill is open to "amendment, either for insertion or omission; whether "the same Amendment has been, in a former stage, "accepted or rejected." May explains this by the principle that "an entire Bill may be regarded as one "Question, which is not decided until it has passed." What has been done in Committee may be undone if the Bill be recommitted. The inconsistency of conflicting decisions, in different stages, will not be manifest when the Bill has passed.

Bills open to amendment on each stage.

When Bills have been ultimately passed or rejected, the rule as to the same Question applies.

These points will be discussed more fully in the chapter dealing with Procedure on Bills.

Rescinding is technically a new Question.

The rescinding of a resolution or other vote may appear, at first sight, a renewal of the same Question; but, technically, it is the matter of a new Question. The resolution is read, and a Motion made that it be rescinded. The effect of the resolution is annulled, while the same Question, which had been resolved in the affirmative, is not again offered.

Rescinding a negative vote.

It is laid down by May that to rescind a negative vote is equivalent to offering the same Question again.

The way out of the difficulty is to propose another Question, similar in general import, but sufficiently different to constitute a new Question (May, p. 329). A few instances may be quoted from the Journals to illustrate the practice of rescinding resolutions.

Thus—

Instances illustrative of the practice of rescinding resolutions.

On November 10th, 1858, the House read and rescinded an Order of the House of November 5th for transmitting a resolution of the House, for a grant of pastoral land to John McDouall Stuart, to the Legislative Council, and requesting their concurrence therein; and ordered that a copy of the resolution be sent for the information of the Council.

On June 16th, 1870, the Order of the House of June 14th, instructing the Attorney-General to prosecute the publishers of the *Wallaroo Times*, was rescinded.

On November 30th, 1870, a resolution of the House of November 23rd, striking off a Division the names of certain Members, was rescinded.

On October 12th, 1871, a resolution of the House of September 22nd, for appointing a Parliamentary Draughtsman, was read and rescinded.

Where formalities omitted in respect of Bills.

In the passing of Bills, it may happen that some necessary formality has been neglected. In such a case, whatever progress has been made will be rescinded, and the Bill restored to that stage where the omission or error has occurred.

Thus—

Instances.

On October 26th, 1869, the Electoral Bill was read a second time, and committed, considerable progress being made. But the Bill was one of a class which required to be carried, on its second reading, by an absolute majority of the House; and the House not having been counted to ascertain such majority, on November 11th, the resolution for reading the Bill a second time, and committing it, was read and rescinded, the Bill again read a second time, the Speaker counting the House, and committed.

Again, on February 1st, 1870, a Railway Bill having been read a third time and passed, with a slight inaccuracy in the way in which the Question was put, the resolution of that day was, on February 9th, read and rescinded, and the Bill again read a third time and passed, the inaccuracy being corrected.

On August 18th, 1875, a Bill was read a third time and passed, which appropriated Revenue, and which had not been first recommended to the House by the Governor; and, on the following day, the Speaker drew the attention of the House thereto, whereupon the resolution for the passing and title of the Bill was read and rescinded. The necessary Message was subsequently received, and the Bill passed August 24th.

On November 29th, 1878, the House having disagreed to a certain suggestion of the Legislative Council of an Amendment in a Loan Bill, at a later period in the day the Standing Orders were suspended, and a Motion made, without Notice, to rescind the resolutions of the House with reference to the suggestion of the Council; and the suggestion was again considered in Committee, and ultimately agreed to.

Date of present restriction.

N.B.—It was not till the revision of the Standing Orders in 1875 that the conditions as to time and absolute majority necessary for rescinding resolutions were imposed.

STRANGERS.

Standing Orders recognise presence of Strangers.

The presence of Strangers while the House is transacting business is distinctly recognised by Standing Orders, and provision thereby made for their admission and withdrawal. Accommodation is provided below the Bar, and in what is termed the Strangers' Gallery. To the former Members of the Council have the privilege of admission without orders. But Strangers are only admitted to that portion of the Chamber by the Speaker's order.

How admitted.

By Mr. Speaker.

By Members' orders.

Members may admit three Strangers to the Gallery each day by written orders, and such Strangers are allowed access thereto before the Speaker takes the Chair. After the Speaker has taken the Chair, the public is admitted without orders to the Gallery, the only limit being the space available. Those below the Bar, whether Members of the Council or Strangers, must retire previously to a division being taken, if ordered. Strangers in the Gallery remain during divisions *(vide ante*, pp. 90, 91). Strangers are not admitted into any part of the Chamber itself, *i.e.*, the body of the House, as it is called, while business is being transacted.

Speaker orders withdrawal at discretion, or if attention called.

The Speaker has the right at any time, acting on his own discretion, to order Strangers to withdraw, and if any Member makes a request to that effect, the Speaker has no choice, but must clear the House of Strangers.

Instance.

On September 5th, 1883, a Member being called on to move a Motion standing in his name on the Question of Social Purity, the House was cleared of Strangers at the instance of another Member.

Attempted suspension of Standing Order enforcing withdrawals.

On September 12th, a Motion was made to suspend the Standing Orders relative to the exclusion of Strangers, saving the rights of the Speaker, during the continuance of the debate. But an Amendment was carried to refer Standing Order 73 to the Standing Orders Committee, to consider its operation and report to the House. The Standing Orders Committee recommended that no alteration be made, and the House agreed to the report.

Question referred to Standing Orders Committee.

Imperial practice.

It may be interesting to note that in the House of Commons a resolution of May 31st, 1875, though it has not been made a Standing Order, has become the established rule in dealing with the exclusion of Strangers. This resolution is—"That if at any Sitting of the "House or in Committee any Member shall take notice "that Strangers are present, Mr. Speaker (or the Chair-"man, as the case may be) shall forthwith put the "Question that Strangers be ordered to withdraw, with-"out permitting any debate or Amendment: Provided "that Mr. Speaker or the Chairman may, whenever he "thinks fit, order the withdrawal of Strangers from any "part of the House" (Cf. Brand's Decisions, 1872-80, pp. 197, 198).

Stranger heard at Bar as petitioner.

A Stranger from whom a Petition has been presented praying therefor may, on Motion made and Question put and passed, be heard at the Bar of the House.

Instance.

Thus, on August 27th, 1868, it was carried as an Amendment to the Question of the second reading of the Northern Territory Act Amendment Bill, that Samuel Tomkinson be heard at the Bar of the House, to state his objections to the passing of the Bill. And the Petitioner appearing, Mr. Speaker notified to him that he had permission to be heard, whereupon he was heard and withdrew.

WITNESSES.

The House has the right to summon witnesses, and compel their attendance to answer questions and give evidence. Right of the House to compel evidence.

When the House appoints a Select Committee, it gives to the Committee power to send for persons, papers, and records. Delegates power to Select Committees.

Witnesses before Select Committees will be treated of when dealing with the appointment, functions, and procedure appertaining to Select Committees.

Witnesses are ordered to attend before the House by summons, under the hand of the Speaker.—Standing Order 408. Speaker orders attendance of witnesses.

A witness attends at the Bar, and on the Sergeant-at-Arms announcing his attendance, he is examined by Mr. Speaker. If any Member desire to put any questions, he must put them through the Speaker. But, if the House be in Committee of the Whole, any Member may put questions to the witness.—Standing Orders 419, 420. Witness, how examined.

If any question is objected to, or matter for deliberation arises, the witness withdraws for a time.—Standing Order 421. Withdraws during deliberation.

Witnesses cannot be examined upon oath, except in cases provided for by law; and the House will extend its protection in respect of evidence given by witnesses.—Standing Orders 416, 417. Not examined on oath, except where legal provision.

When a witness is in prison, the Speaker may be ordered by the House to issue his warrant to the keeper of such prison to produce such witness in safe custody as often as his attendance is required.—Standing Order 415. Speaker's warrant to produce a witness who is in prison.

Examination of a Member as witness.

If the House desires to examine one of its own Members as a witness, Mr. Speaker orders such Member to attend in his place, and he will be there examined.—Standing Orders 409, 422.

And of a Member or Officer of the Council.

If the House desires to examine a Member or any Officer of the Council, a Message is sent, requesting the Council to give leave.

The Judges as witnesses.

If Judges are examined, they are introduced by the Sergeant-at-Arms, and have chairs placed for them within the Bar.

Evidence privileged and under protection of House.

The evidence which a witness gives is privileged; and the House will take action where a witness complains of insults, threats, or any other consequences with which he is menaced for giving evidence before the House.

Bar kept down.

When a witness is examined, the bar is kept down.

Case of witnesses reported to House by Select Committee for refusing to answer.

On May 30th, 1865, the Chairman of a Select Committee reported to the House that two witnesses had refused to answer certain questions put by the Committee, and he moved that they be ordered to answer the said questions, whereupon the House made order.

Second report of further refusal.

Witnesses ordered to Bar.

On June 1st, the Chairman again reported that the two witnesses had again been summoned before the Committee, and had again refused to answer. On the following day, the House, on Motion, ordered that the witnesses be called to the Bar of the House, and questioned by Mr. Speaker.

Procedure thereon.

On June 6th, one of the witnesses obeyed the summons, and attended at the Bar, when Mr. Speaker shortly addressed him, and assured him of the protection of the House, before putting the questions.

House will excuse on sufficient reason.

The witness read a written statement in explanation of his inability to answer the questions of the Select Committee now repeated in the House. He was then directed to withdraw while the House deliberated. A Motion was ultimately carried that, after the explanation, the House excused the witness from answering the questions put by Mr. Speaker.

On Motion made, and Question put and passed, the witness was again called to the Bar, when Mr. Speaker read to him the resolution of the House (V. & P., 1865, pp. 62, 69, 74, 80-82).

Procedure in case of witness absent when summons served.

In this case the summons for the other witness had been left at his usual place of abode; but Mr. Speaker reported that the witness had left town, and it would be his duty, when he had ascertained that the witness had returned, to inform the House, and the witness could then be summoned. No further action appears to have been taken.

Oaths administered to witnesses in House of Commons by Statute.

N.B.—By 34 and 35 Vict., c. 83, the House of Commons and its Committees are empowered to administer oaths to witnesses, and the penalties of perjury attach to false evidence.

VOTES OF THANKS.

Precedence of Votes of Thanks.

"Precedence will be ordinarily given, by courtesy, "to a Motion for a Vote of Thanks of the House."—Standing Order 218.

Instance of Vote of Thanks.

On December 17th, 1858, the thanks of the House were voted to John Ridley, "as a recognition of his "claims to the gratitude of the people of South Aus-"tralia for his invention of the reaping machine"; and Mr. Speaker was requested to convey the same in a letter, transmitting a copy of the resolution (V. & P., 1858, p. 215).

Communicated by Mr. Speaker.

Instance of House opposing a Vote of Thanks.

On October 21st, 1862, a Motion was made to suspend the Standing Orders, to enable a Motion to be made for the thanks of the House to be given to the Commissioners representing the Colony at the Great International Exhibition; but the feeling of the House was against the vote, and so the Motion for suspension was negatived (V. & P., 1862, p. 357; *Hansard*, pp. 1130, 1131).

SELECT COMMITTEES.

A Select Committee is composed of certain Members of the House appointed to consider or inquire into any particular subject, and to report their opinion thereon to the House. Select Committee, composition and object of.

The appointment and procedure of Select Committees is governed by Standing Orders. Governed by Standing Orders.

The initial procedure is a Motion by a Member pursuant to Notice — "That a Select Committee be "appointed to inquire into and report upon" whatever subject the Member desires to be remitted to such Committee. Initial procedure.

> Public Bills may be referred to Select Committees, and Private Bills, if originating in the House, must be so referred. But this will be more properly considered when describing procedure on Bills. Committees on Bills.

If the Motion be made, and Question put and carried, the House proceeds to elect the Committee by ballot. The method of election has already been described in dealing with Sessional Committees (*vide ante*, pp. 88, 89). Elected by ballot.

The number of Members on Select Committees is defined. Number defined.

All Select Committees shall, unless the House shall otherwise direct, consist of seven Members, whereof one shall be the mover.—Standing Order 343. Seven Members to form a Select Committee.

The Speaker is not liable to be elected on any other Committee than the Standing Orders and Library Committees, of which he is, *ex officio*, a member.—Standing Order 344. Speaker not liable;

But, as already shown, he is invariably placed upon the House or Refreshment Committee (*vide ante*, p. 88), and occasionally upon other Special Committees, where- But, if desired and willing, serves occasionally.

on the House desires his presence, and the Speaker is willing to serve.

Personal interest.

The principle of keeping every action of the House from the influence of personal interest is not lost sight of in Select Committees.

No interested Member to be on a Committee.

No Member shall sit on a Select Committee who shall be personally interested in the inquiry before such Committee.—Standing Order 347.

Members bound to serve.

The position of a Member of Parliament entails the obligation to fulfil all the duties imposed upon Members by the Orders and Regulations of the House. He is therefore bound to serve on a Committee to which he has been duly appointed.

Excuse allowed.

But the House is always willing to allow valid reasons for excusing a Member from serving.

Members discharged and added upon Motion on Notice.

Members may be discharged from attending a Select Committee, and other Members appointed, after previous notice has been given.—Standing Order 348.

Instances.

Thus, on June 12th, 1862, on Motion, of which Notice had been given, the Commissioner of Public Works was discharged from the Select Committee on the Petition of H. R. Fuller, and Mr. Santo placed thereon (V. & P., 1862, pp. 73, 79).

Again, on August 4th, 1870, two Ministers were discharged from attendance on a Select Committee, and two other Members substituted, on Motion made and Question put and passed, pursuant to Notice (V. & P., 1870, pp. 81, 82).

Notice not always given.

The Standing Order, so far as regards the necessity of previous Notice for discharge, has not always been observed in its integrity.

Instances.

Thus, on September 2nd, 1874, immediately upon the appointment of a Select Committee, the Attorney-General moved that he be discharged therefrom, and that the Chief Secretary be substituted in his place. And the Question was put and passed (V. & P., 1874, p. 254).

Again, on June 28th, 1877, two Members were, on Motion of which no previous Notice had been given,

discharged from a Select Committee, and two other Members elected by ballot to fill the vacancies (V. & P., 1877, p. 50).

But, on July 1st, 1880, a Member desiring to be discharged, and not having given Notice, moved the suspension of the Standing Orders to enable him to make the necessary Motion (V. & P., 1880, p. 59).

Speaker notifies constitution, and puts Motion for powers and report.

The Speaker notifies to the House the constitution of the Committee, and puts the Question on Motion that the Committee have power to send for persons, papers, and records, and to report on a day named.—Standing Orders 360, 349.

First meeting convened by mover.

It is customary for the mover to confer at once with his colleagues as to the time most convenient for the first meeting of the Committee.—Standing Order 350.

Summons issued, and Memorandum on Notice Paper.

This is communicated to the Clerks at the Table, and summonses are at once sent out by the Clerk of Committees to the Members of the time and place, the latter being whichever Committee Room is available and most convenient. A Memorandum is also placed on the Notice Paper of the meeting of the Committee, and the bringing up of the Report is entered amongst the Orders of the Day on which the Report is to be brought up. A list of the Committees, showing date of appointment and date of report, appears at the end of the Notice Paper, and lists of all Select Committees are exhibited in the Lobby and Clerk's Office.—Standing Order 374.

List of Committees posted up.

Procedure.

The Committee having met, the Clerk lays before them the record of their appointment.

Quorum.

No business can be transacted unless a Quorum be present, which is fixed at five to pass resolutions and three to take evidence.—Standing Order 351.

Quorum must be present, or Members may retire, and Clerk convenes next meeting.

It is the duty of the Clerk to see that the necessary Quorum is at all times present. If after the lapse of fifteen minutes from the time of meeting there is not a Quorum, the Members may retire after entering their names on the Minutes. In this case the Clerk convenes

a meeting for the next business day.—Standing Order 354.

The term next business day is not very precise. It has, in practice, been taken to mean the next day on which the House meets to transact business.

No Quorum during sitting, Committee adjourns.

If during a sitting the Quorum be not present, the Clerk calls the Chairman's attention thereto, who either suspends proceedings till a Quorum be made up, or adjourns the Committee to a future day.—Standing Order 355.

Election of Chairman.

If the Committee is competent to proceed with business, the first duty is to elect a Chairman. It is the recognised custom to elect the mover.—Standing Order 352.

Only formal business at first meeting.

Merely formal business is transacted on this occasion, such as fixing the times of meeting, appointing a shorthand writer to take down evidence, and deciding upon witnesses to be summoned.

Minutes kept.

Minutes of the Proceedings of each day's sitting are kept by the Chairman, under Standing Order 353.

Record of proceedings and divisions.

An entry shall be made in the proceedings of the names of the Members attending each Committee meeting, and of every Motion or Amendment proposed in the Committee, together with the name of the mover thereof; and if any Division take place in the Committee, the Chairman shall take down the names of the Members voting in any such Division, distinguishing on which side of the Question they respectively vote.

Committee cannot sit when House is sitting.

No Committee can sit of right while the House is sitting.

Committees to suspend business on Speaker taking the Chair.

All Committees sitting at the time the Speaker is about to take the Chair shall be informed by the Sergeant-at-Arms that the Speaker is about to take the Chair; and all proceedings after such notice shall be null and void.

Not to sit when House is sitting.

Except by leave of the House, no Select Committee may sit during the sittings of the House.—Standing Orders 357, 358.

By leave, may adjourn from place to place.

It frequently happens that a Select Committee is appointed to investigate matters and make inquiries which can only be satisfactorily done by personal observation. In such a case, application is made to the House for leave to adjourn from place to place.

Thus, in 1881, the Select Committee on Public Education obtained leave, on August 23rd, to adjourn from place to place; and, on the same day, similar leave was given to the Select Committee on the Nairne Railway Extension (V. & P., 1881, p. 113). And in the same Session, immediately on the appointment of a Select Committee on the construction of a certain railway, Motion was made for leave to adjourn from place to place (V. & P., 1881, p. 110).

Committee adjourns itself from time to time.

A Committee adjourns itself as to time, and may sit on days on which the House does not sit. It should regularly be adjourned from one sitting to another, and an entry thereof made in the Minutes. Sometimes, for the convenience of Members, it is left for the Chairman to arrange, by consultation, a day best calculated to suit engagements; but this being irregular, can only be done by the concurrence of the Members (Cf. Denison's Decisions, pp. 179, 180).

Select Committee summons witnesses to attend and bring documents.

By the power committed to it—"to send for persons, "papers, and records," a Select Committee can summon any witness, and he must bring with him all documents which he is informed will be required for the use of the Committee.

The direct relations of Select Committees with witnesses may be properly deferred till the practice as to documents and records has been considered.

Rule as to papers proper to be ordered.

A Select Committee cannot send for papers which, if required by the House, would be sought by address. Should such be desired, the proper course would be to move an Address in the House, and the House will refer the papers, when received, to the Committee. Nor can a Committee order such papers, as it is not usual for the House itself to order (Cf. May's Practice of Parliament, pp. 454, 455, and V. & P., 1860, p. 102).

Instances of papers called for.

A few instances may be cited from the proceedings of Select Committees, to illustrate the nature of the documents occasionally called for.

Thus, the Select Committee on Railway Contracts, 1864, instructed the Clerk—"to call for the production "of original plans, specification, and contract of the "goods station at Adelaide; also plans of deviation "with the actual gross sum paid to the contractor, and "all correspondence connected therewith, including "the minutes of the Engineer and Architect, and the "Commissioner of Public Works."

Application was, in this case, made to the office of the Commissioner of Public Works, and the order of the Committee not being complied with, the Chairman was requested to bring the matter before the House and ask the Commissioner for an explanation.

Papers also were ordered from the Master of the Supreme Court, and a memorandum of cost and expenses in the case of Smith *v.* the Commissioner of Railways from the solicitors to the Commissioner, the claim of the contractor having been submitted to arbitration.

The Select Committee on the management of the Lunatic Asylum, 1869-70, invited two of the visitors to the Asylum, who appeared before them as witnesses, to supplement their evidence by written suggestions as to visitors' powers.

The Select Committee on the Attorney-General, 1872, ordered the Clerk—"to write to Mr. Boucaut (the "Attorney-General), requesting him to forward the "original Articles of Agreement between the members "of the Mills' Claims Association, with the list of the "members and the release signed by them when the "compromise was effected; also the retainer received by "Mr. Boucaut in said case, and written instructions in "reference thereto."

The Secretary to the Attorney-General was also ordered to bring all documents in Attorney-General *v.* Hughes, and all papers relating to compromise.

In reference to the former request, which was communicated as a request, Mr. Boucaut, himself, brought the documents, but urged legal objections to forwarding them. The reason is obvious. Had the documents been forwarded, they would have become the property of the Select Committee, who could have printed and published them. As the case is of some importance, it may be as well to re-produce the points taken by the Attorney-General :—"I hold them for my clients, "the Mills' Claims Association, and I have no right to "produce them. In a Court of Law I should have to "make the same objection as I make to the Committee; "and I wish to say that, in addition to that formal "objection, there are substantial reasons why I hope "the Committee will not call for them, so as to have "them printed and published to the world. Litigation "is still pending between the Mills' Claims Association "and the Moonta Company, in respect of some interest "which Mr. Spence holds ; and the printing of these "documents might very probably injure my clients. "There are a great number of gentlemen connected "with this Mills' Claims Association who, I know, "would greatly object to have their names published "to the world. Therefore I hope the Committee will "see that I am bound—not only justified, but bound— "to put this before the Committee. At the same time "I will not hesitate to take this responsibility upon "myself—that, so long as they are not printed and "published to the world, I can have no objection to "the Committee reading them and inspecting them "and seeing the names of the shareholders ; or to give "them such extracts from the deeds as they may deem "necessary, or explain the deeds. I will readily allow "the Committee to look at the deeds while I give my "explanation ; but I think the Committee will see that "they ought not to ask me to put the deeds before "them in a formal manner, in order that they may be "printed and published with the evidence." In consequence of this explanation, the Chairman guaranteed

Procedure where witness objects to production of privileged documents.

on behalf of the Committee to return the documents after having first perused them and sealed them up to prevent anyone else having access. The documents were handed in on these conditions (Minutes of Evidence, pp. 7, 8 ; Parliamentary Paper No. 36, 1872).

On a subsequent day the Chairman handed the deeds to the Attorney-General, who was present under examination. Having done so, the Chairman asked the Attorney-General to hand them in as evidence, which was declined on the grounds that a lawyer would have no right to do so without the consent of his clients, as it might prejudice their interests in litigation pending, and the Committee did not press the point (Minutes of Proceedings, p. vii., and Evidence, p. 74, *ibid.*).

The Select Committee on Harbor Accommodation, 1876. ordered all papers and plans connected with either the outer or inner harbor to be furnished. Under such an order the Clerk would make a collection of all papers and plans which had, from time to time, been laid before Parliament *in re*, and would apply to the Department for other documents.

The Select Committee on the Paris Exhibition Special Commissioner, 1880, ordered several Papers relative to expenditure and accounts.

Original documents may be returned by Order of the House.

Wherever original records or documents are supplied by persons to the order of the Committee, and it is desired that such originals be returned, the Committee instructs their Chairman to move in the House to return to all persons the original papers supplied by them to the Committee (V. & P., 1864, p. 350 ; 1872, p. 65 ; 1880, p. 102).

Clerk of the House to summon witnesses.

The Chairman of a Select Committee shall direct the Clerk of the House to summon the witnesses to be examined before such Committee.

Members, how summoned.

Refusal to attend reported to House.

If a Select Committee desire the attendance of a Member as a witness, the Chairman shall, in writing, request him to attend ; but should he refuse, the Select Committee shall take no further action, except to report the matter to the House.

If any Member of the House refuse, upon being sent for, to come or to give evidence or information as a witness to a Committee, the Committee shall acquaint the House therewith, and not again summon such Member to attend the Committee. If a Member refuse to attend.

The examination of witnesses before every Select Committee shall be conducted as follows, viz. :—The Chairman shall first put to the witness, in an uninterrupted series, all such questions as he may deem essential, with reference either to the subject referred to therein, or to any branch of that subject, according to the mode of procedure agreed on by the Committee. The Chairman shall then call on the other Members severally by name to put any other questions which may have occurred to them during his conduct of the examination; and the name of every Member so interrogating a witness shall be noted and prefixed to the questions asked. All replies to questions put shall be in writing; but if the Committee be attended by a shorthand writer, the notes of such shorthand writer shall be sufficient. Examination of witnesses.

When a Committee is examining witnesses, strangers may be admitted, but shall be excluded at the request of any Member, or at the discretion of the Chairman of the Committee, and shall always be excluded when the Committee is deliberating. Admission of strangers.

Members of the House may be present when a Committee is examining witnesses; but withdraw, by courtesy, when the Committee is deliberating *(vide* Standing Orders 361, 410, 411, 362, 363, 364). Admission of other Members.

The summons to a witness contemplates the possibility of such witness not being able to attend at the time named; and in that case, he is requested to advise the Clerk thereof, to enable the Chairman and other Members to be informed, and postpone the attendance of witnesses if a Quorum cannot be obtained. Witness unable to attend informs Clerk.

In addition to those witnesses who are specially summoned, a Select Committee occasionally invites, by General invitation to witnesses.

advertisement in the public press, the attendance of all persons who desire to appear and give evidence

Application to give evidence.

Application, also, is sometimes made by parties to appear and give evidence before a Committee.

And to be heard by counsel.

Parties interested in the matter which has been referred to a Select Committee may apply to be heard by counsel.

Instances.

Thus, on the Tipara Mineral Claims Select Committee, Eustace R. Mitford, for himself, and the Wallaroo and Mitford Association, for themselves, applied for permission to appear by counsel.

Chairman moves in House for leave for counsel.

In such cases the Chairman is instructed by the Committee to move in the House for leave to be given to all parties interested in the subject matter of the inquiry to appear by counsel before the Committee. If leave be given, the Chairman reports to the Committee at its next sitting (V. & P., March 11th, 1863; Minutes of Select Committee on Tipara Claims, P.P. 51, 1863, p. 1.).

Parties not represented by private agents.

But a Select Committee will not entertain an application from a party interested to be represented by a private individual as his agent.

Instance.

Thus, in respect of the same Committee, a letter was received from Mr. J. H. Clark, enclosing an authority from Mr. Mills to act on his behalf in respect of a Petition presented from him to the House, and by the House referred to the Select Committee. Mr. Clark applied for a copy of the evidence taken in respect of Mills's claims, and to be present, with a view to suggest, verbally or in writing, such questions as may be necessary.

"Resolved—That Mr. Mills be informed, through "Mr. Clark, that the Committee will allow him to "appear before them to conduct his case, either per- "sonally or by counsel, but in no other way; and that "the evidence cannot be placed in the hands of any "private individual until laid on the Table of the "House, and ordered by the House to be printed" (Minutes of Proceedings, pp. x., xi., *ibid.*).

The Committee prescribes the limits to be observed by counsel in conducting their case. Committee rules conduct of case by counsel.

Thus, Mr. Boucaut objected to Mr. Ingleby asking a witness a certain question, and the room was cleared while the Committee deliberated.

"Resolved—That the cross-examination of any "witness shall not refer to his conduct in any matter "not connected with the subject under inquiry before "the Committee; but counsel shall be at liberty to "produce documentary or other evidence to test the "credibility of any witness."

And, on a subsequent day, when counsel sought to remark upon an opinion expressed by one Member of the Committee, it was resolved—"That any statements "made by a Member of the Committee may be com- "mented upon by counsel in his reply; but it would "be inconvenient to allow counsel to argue the several "statements as they arise" (Minutes of Proceedings, pp. III., IV. Cf. also Minutes, May 11th, p. IV.; and May 15th, p. V., *ibid.*).

In examination of a witness by a Member of the Committee, portions of evidence already given have been, by a resolution of the Committee, read to such witness (Select Committee in *re* the Attorney-General, P.P. 36, 1872; Minutes of Proceedings, p. V.). Examination by a Member.

When a witness has been unable to attend personally, questions have been furnished to him, and his written answers thereto inserted as an Appendix to evidence taken orally. Written evidence.

Written statements, in addition to oral evidence, have also been received by a Committee, and inserted in Appendix matter (Cf. Minutes of Proceedings, Harbor Accommodation Select Committee, 1876, pp. VI., VII., and Appendices G, H, I). Written statements.

A witness has been allowed, at the close of evidence, to make a written statement, reviewing and commenting thereon (Lunatic Asylum Select Committee, P.P. 68 of 1869-70; Minutes of Proceedings, pp. V., VI., VII.; Minutes of Evidence, p. 58). Witness allowed to review evidence.

Witness in custody brought up by Speaker's warrant.

When a witness is detained in custody whom a Select Committee desires to have before it, a Motion is made in the House that Mr. Speaker issue a warrant for his appearance.

Instance.

Thus, on the Tipara Mineral Claims Committee, it was moved in the House, on July 10th, 1863—"That "the Speaker be requested to issue his warrant to the "Keeper of Her Majesty's Gaol, at Adelaide, to bring "before the Select Committee of this House 'on "'Tipara Mineral Claims,' at such time as the Com- "mittee may desire, the body of Michael Dermody, "now a prisoner in his custody."

Accordingly, on July 13th—"In obedience to the "Speaker's warrant, Michael Peter Dermody, an "imprisoned insolvent debtor, was brought up by "Keeper of Gaol, and examined" (Tipara Claims Select Committee, P.P. 51 of 1863; extracts from Votes and Proceedings, p. 2; Minutes of Proceedings, p. IX.).

Witnesses refusing to answer, how dealt with.

If witnesses refuse to answer questions, a report is made to the House, and the House makes order that they do answer the questions. If the refusal is persisted in, a second report is made to the House, and, on Motion made, and Question put and passed, the witnesses are ordered to appear at the Bar of the House. On their appearance, the House will take such action as the circumstances demand. If the witnesses offer an explanation which is deemed satisfactory by the House, the House may excuse them from answering the questions originally put.

If the explanation is not such as the House will accept, the House can proceed to such measures as it may deem necessary to vindicate its privileges *(vide ante*, pp. 156, 157).

Evidence supplied during progress in certain cases, under conditions.

If application is made or it is deemed advisable to supply any person or persons with evidence taken before a Select Committee, during the progress of its inquiry, the Chairman is directed to move in the House—"That leave be given to the Select Committee to cause

"_____to be supplied with copies of the "evidence taken, and other documents before the "Committee."

It is usual, further, to limit such leave by the conditions, "for personal use only," and "after such "evidence has been corrected by the witnesses, and a "fair copy supplied to the Committee" (V. & P., 1869-70, p. 59; 1870-71, pp. 348, 353; 1879, p. 99; 1881, p. 113).

Evidence not to be disclosed.

The evidence taken by any Select Committee of the House, and documents presented to such Committee which have not been reported to the House, shall not be disclosed or published by any Member of such Committee, or by any other person.—Standing Order 366.

Evidence, how reported and printed.

Evidence is taken down by the shorthand reporter to the Committee, and, when transcribed, is sent in to the Committee Clerk. It is then printed, a sufficient number of copies being struck off to supply the Members of the Committee and the Committee files in the Committee Room.

Distribution of evidence.

Each witness is supplied with a copy of his own evidence, with an instruction that he can only make verbal corrections. If the witness limits his revision to this, the Committee Clerk forwards such corrected evidence to the Printer for final print. But if any corrections appear to him to exceed the instruction, he submits them to the Chairman. If the corrections are material or in substance, the more proper course is for the witness to forward an explanation or statement, which is allowed to appear as a note or appendix to his evidence, or to ask leave to be re-examined. The witness is requested to return his evidence with as little delay as possible. If it be not returned within a reasonable time, the Committee Clerk will cause it to be printed in its original form.

Witnesses may correct evidence in verbal matters.

If not corrected in time, printed as originally reported.

Draft Report prepared by Chairman, and distributed amongst Members of the Committee.

When all the evidence which the Committee desire has been taken, and counsel, in cases where such have been allowed, heard (P.P. 51, 1863, p. xiii.), or any review of the evidence put in, by any party to whom

permission has been granted, and considered (P.P. 68, 1869-70, p. VII. and pp. 58-63), the Chairman prepares a Draft Report, which he forwards to the Committee Clerk, who causes the same to be printed, and circulated amongst the Members of the Committee. By this means the Members of the Committee come prepared to discuss the Draft Report when formally placed before them by the Chairman, at the meeting convened for that purpose.

Above practice varies from Standing Order.

This practice has been found convenient, though it is not strictly in accordance with the letter of the Standing Order which bears upon the subject, and which interposes more deliberation, and which is—

Consideration of Draft Report.

The Chairman shall read to the Committee, convened for the purpose of considering the Report, the whole of his Draft Report, which, if desired by any Member, shall be printed and circulated amongst the Committee, and a subsequent day fixed for its consideration; and when the Committee are desirous of taking the Report into consideration, the Chairman shall read the Draft Report, paragraph by paragraph, putting the Question to the Committee at the end of each paragraph—"That "it do stand part of the Report." A Member objecting to any portion of the Report shall propose his amendment at the time the paragraph he wishes to amend shall be under consideration.—Standing Order 368.

Draft Report may be amended.

Every part of the Report is liable to amendments, according to the ordinary rules which govern amendments. A Question is put that each paragraph, or paragraph as amended, stand part of the Report.

New paragraphs may be inserted or added by way of amendment.

Limited to order of reference.

But no resolution or amendment may be proposed which is not within the order of reference.

The Standing Order is very clear that the Report must be prepared by the Chairman.

Chairman to prepare Report.

It shall be the duty of the Chairman of every Select Committee to prepare the Report.—Standing Order 367.

In the House of Commons, it is competent for other Members of the Committee to propose Draft Reports other than that of the Chairman; and in such a case they are all read a first time. When the Question is put that the Draft Report proposed by Mr. A be now

read a second time, paragraph by paragraph, an amendment may be moved to leave out Mr. A, and insert Mr. B. When the Committee has decided which of the rival reports shall be considered, it is proceeded with, paragraph by paragraph (May, Practice of Parliament, pp. 467, 468). The House of Commons has no Standing Order directing the Chairman to prepare the Draft Report.

Final resolution.

The closing resolution of a Select Committee is— "That it be the Report of the Committee to the "House, and that the Chairman do sign it, and present "the same to the House."

Chairman to sign Report.

Every Report of a Committee shall be signed by the Chairman thereof.

Report brought up.

The Report of a Committee shall be brought up by the Chairman, and may be ordered to lie upon the Table, or otherwise dealt with as the House may direct.—Standing Orders 369, 370.

Documents to accompany Report.

The Minutes of the Proceedings, Evidence, and Appendices accompany the Report.

No discussion, but formal Motion on presentation.

No discussion can take place on the presentation of a Report; but it is customary for the Chairman simply to move that the Report be read, and, with the documents accompanying it, be printed.

Reports frequently brought up antecedent to day ordered.

Although Standing Order 349 ordains that, on the day fixed for the Report, the Report shall be brought up, unless further time be moved for and granted, the House will always receive the Report of a Select Committee before the day ordered, if the Committee have concluded their labors, and are prepared to report. So many cases of Reports antecedent to the day ordered occur in the Journals that there is no necessity to quote them.

Time for Report extended.

If a Committee finds that it is unable to report on the day ordered, the Chairman is instructed to move in the House for leave to extend the time for bringing up the Report.

No publication till Report.

No evidence or documents may be disclosed or published prior to the Report; but cases may arise where an intermediate publication of evidence, or more than one report, may be necessary. The House will grant

Progress evidence and Reports.

leave to report evidence, from time to time, or to make Progress Reports.

Instances.

Thus—

On July 28th, 1863, it was moved, on Notice, that the Chairman have leave to report to the House the evidence taken by the Select Committee on Tipara Mineral Claims up to Friday, July 24th, inclusive; and, leave being granted, the evidence in question, with the Appendix and five maps relating thereto, was presented, and ordered to be printed; and, on August 21st, further evidence was presented, pursuant to the original leave (V. & P., 1863, pp. 148, 197; *vide* also V. & P., 1868-9, p. 206).

On October 17th, 1883, it was moved in the House—"That the Select Committee on the Working of the "Railways have leave to report from time to time" (V. & P., 1883-4, p. 203).

And, on October 25th, the First Progress Report was brought up, read, and ordered to be printed.

On February 27th, 1884, the Second Progress Report was brought up, read, and ordered to be printed, with accompanying papers, viz., Minutes of Proceedings, Evidence, and Appendices.

Final Report closes Committee.

If any Committee, not having received power to report from time to time, make a report to the House, their sittings are thereby closed; and, if further proceedings were desired, it would be necessary to revive the Committee (May, Practice of Parliament, p. 469).

No reference in the House to proceedings in Committee till Report.

Until a Committee has reported, no reference can be made, in debate, to its proceedings, *i.e.*, to the Report and Evidence, or questions put in respect thereof. Nor, again, after a Committee has reported, is it in order to interrogate the Chairman as to the proceedings of the Committee (Denison's Decisions, p. 178).

Motion for subsequent proceedings.

If any measure or proceeding be necessary upon a Report of a Committee, such measure or proceeding shall be brought under the consideration of the House by a specific Motion, of which Notice must be given in the usual manner.—Standing Order 372.

"Any appropriate Motion may be founded upon a "Report: as that it be recommitted; or recommitted, "with Minutes of Proceedings, so far as they relate to "a certain paragraph; or recommitted, and the order "of reference amended; or taken into consideration "on a future day; or communicated to the Lords at a "Conference (May, Practice of Parliament, pp. 470, 471). Proceedings in House on Report.

In the majority of cases recorded in the Journals, the House has contented itself with ordering the Report and documents to be printed. In some few instances, however, action has been taken to carry into effect the recommendations of a Committee; or to review its proceedings and Report; or to make order to repair some omission; or to proceed in any direction which suggests itself as advisable. Report and documents ordered to be printed. Action taken arising out of Report.

Thus—

On January 21st, 1858, the House ordered that the Report of the Select Committee on Federation be forwarded to the Governor for his information. Instances.

On September 5th, 1876, the House ordered the Report of the Committee on Mineral Licences, with accompanying documents, to be printed; but, on September 13th, the House read and rescinded the resolution of September 5th. On September 20th, Motion was made for leave to bring up copy of the Report of the Committee as agreed to by that Committee on August 31st; and, on September 27th, the House made order in compliance with the Motion. This Report differed from that finally agreed to by the Committee, and laid before the House on September 5th. On October 11th, a Motion was made that the Report of August 31st be agreed to; and, after debate, it was finally, on October 25th, put to the House, paragraph by paragraph, as a complicated Question, partly amended, and agreed to.

On August 15th, 1877, the Chairman of the Select Committee *re* W. T. Dalwood brought up the Report, which was read as usual, and ordered to be printed,

with accompanying documents. On August 29th, the late Chairman of the Committee called attention to the Report, and moved that the House agrees therewith; and, September 12th, the Motion was carried. On October 3rd, 1877, the resolution of September 12th was read, on Motion pursuant to Notice, and Motion made that the resolution be rescinded; but this Question passed in the negative.

On September 4th, 1879, the Report of the Select Committee on the Mount Gambier Railway was brought up and, on Motion, read, and ordered to be printed, with its documents. On October 1st, Motion was made to agree to the Report, and to request the Government to act in accordance with the recommendations of the Committee. The Speaker directed that a paragraph of the Report be struck out, as not being in accordance with the subject referred by the House to the Select Committee. On October 8th, 1879, the Report was agreed to, with the exception of two paragraphs other than that struck out.

On February 20th, 1872, the Report of the Select Committee *in re* the Attorney-General was brought up, read, and ordered to be printed. On February 27th, Motion was made that the Report be taken into consideration, and that such Report is not in accordance with the evidence; but the Question was negatived.

On September 18th, 1877, Mr. Speaker is asked to give a ruling as to whether the Report of the Select Committee *re* Dalwood's claim for compensation was prepared and agreed to in accordance with the Standing Orders; and, second, whether such Report was in accordance with the instructions of the House as given on the appointment of the Select Committee. Mr. Speaker, who had already directed his attention to the case, replied that, although the manner in which the Report was agreed to was not literally in accordance with Standing Order 368, the irregularity was not such as, in his opinion, to vitiate the proceedings. The Speaker pointed out, for the guidance of Chair-

men, that new paragraphs, in substitution of those struck out, should be treated precisely as new clauses proposed to be added to a Bill in Committee. As to the second question, Mr. Speaker was clearly of opinion that the Report was not in accordance with the instructions of the House under which the Committee was appointed.

House may order production of any documents not produced on presenting Report.

If a Select Committee, in bringing up its Report, does not present all the documents laid before it, a Member may, on Motion, procure the order of the House for the production of all such papers (V. & P., 1876, p. 212).

And Speaker complies therewith.

If such order be given, the Speaker himself lays the papers on the Table, as, after the close of the Committee, they are in his keeping (V. & P., 1876, p. 215).

Payment of certain witnesses before Committees.

Every Select Committee shall have power to award payment to any professional or other witnesses they may deem it necessary to employ in furtherance of the inquiry with which the Committee is charged; and the Chairman's certificate on the face of an account shall be sufficient authority for its payment by the Clerk of the House, or at the Public Treasury; and every such award, with the sum awarded, the particulars of the services rendered, and the name of the party in whose favor made, shall be entered in the minutes of the proceedings of the Committee.

Payment to witnesses.

The practice under this Standing Order is to give each witness a fee of 10s. 6d. for attending and giving evidence on each occasion. Mileage, also, is allowed at the rate of 6d. a mile, each way, if the place of residence is six miles or more from the General Post Office. Every consideration is shown to a witness who is brought from a distance, and is thereby put to expense, which the Committee is satisfied would not be covered by the fee and mileage. Professional witnesses are remunerated at a higher rate. No fixed scale, such as is in force in the House of Commons, is settled, but the Committee use their own discretion herein. Government officials are only paid in reimbursement of expenses actually incurred by them privately in obeying the summons of the Committee.

Travelling and reporting expenditure.

The leave of the House to adjourn from place to place carries with it the inherent authority to meet expenditure caused thereby, and the power to take evidence implies the right to employ and pay a short-hand reporter.

Costs guaranteed in private matters.

If a Select Committee is moved for on what appears to be private grounds, and on private matters, the mover is called upon to guarantee the costs.

Instances.

Thus, when on February 1st, 1872, a Member moved for a Select Committee to inquire into certain charges made by one hon. Member against another, a point was raised in debate as to who should bear the expense of the Committee. Reference was made to the Mineral Leases Committee of 1862, when an hon. Member moving for a Select Committee in a matter wherein the character of an hon. Member was involved, the mover guaranteed the expenses, and the Member interested in the investigation paid them to the Clerk of the House, and Mr. Speaker informed the House that it was always the rule in such cases for the expenses to be guaranteed, but that the House could forego the payment of expenses if they deemed the matter one of public importance (*Hansard*, 1872, pp. 196, 197, 201. P.P. 245, 1862).

On this occasion, after the Committee had been elected by ballot, motion was made—"That the Clerk "of the House be instructed not to apply to the mover "_____ for a guarantee of the costs of the "Select Committee"; but this was negatived on division.

In reply to a Question, Mr. Speaker stated the Clerk would apply for the guarantee, and would not issue summonses or incur expense unless he received it. At the first regular meeting of the Committee, the Chairman was instructed to move in the House—"That it be an instruction to the Select Committee "_____ to authorise the necessary expen-"diture for taking evidence before such Committee"; and on February 6th, 1872, the House affirmed the

Question on Motion made (P.P. 36, 1872; Minutes of Proceedings, Select Committee in *re* Attorney-General, p. v.; V. & P., 1872, p. 34).

Costs not applied for in certain cases.

In other cases the House, on Motion, has instructed the Clerk not to apply to a private individual for the cost of the Select Committee which has investigated matters touching his interests (Mullett's Petition, V. and P., 1870, p. 167; Dalwood's Claim, V. & P., 1877, p. 198).

Power to confer and exchange documents with Council Committees.

Select Committees of the House may be given power to confer with similar Committees of the Legislative Council *(vide ante*, p. 104), and to exchange Minutes of Evidence and other Papers, either by direct Motion (V. & P., 1861, p. 28; V. & P., 1865-6, p. 232), or, on Motion, consequent on a Message from the Council asking that such leave be given (V. & P., 1864, p. 52). Communication thereof will be made to the Council by Message, in the usual way.

Select Committees continued as Commissions.

If a Select Committee is unable to bring its labors to a close during Session, it is customary to move an Address that a Commission, consisting of the Members of the Committee, be appointed to carry on the investigation of the matters referred to the Committee *(vide ante*, pp. 84, 86.; V. & P., 1881, p. 233).

All the papers, documents, and evidence before the Committee are also laid before the Commission.

No power to compel Member of Council to attend if unwilling.

NOTE.—If a Member of the Legislative Council declines to attend as a witness before a Select Committee of the House, he cannot be compelled to attend. Either House limits the leave to attend a Committee of the other by the words—"if he think fit." On July 3rd, 1860, the Chairman of the Select Committee on the Great Northern Mining Company reported to the House that an hon. Member of the Council had, by letter, refused to attend as a witness, so long as the present Chairman presided. The House ordered a Message to be sent to the Council, requesting the Council, under the third clause of the Parliamentary Privilege Act (now repealed), to order the Member to attend. But the Council, in reply, stated their inability to make such order, in view of the circumstances and in accordance with Parliamentary usage (V. & P., 1860, pp. 88, 95).

COMMITTEES OF THE WHOLE HOUSE.

Committee of the Whole House.

A Committee of the Whole House is merely the House presided over by a Chairman instead of the Speaker.

Quorum.

The Quorum is the same as that of the House.

Conduct of Business.

Questions are decided in the same manner as in the House; and the same order in debate is observed in both alike.

Advantages of Committee of the Whole.

The principal advantage gained by going into Committee is the greater freedom of discussion, which permits Members to speak more than once on the same Question.

Financial matters.

Matters affecting Finance can only be discussed in Committee of the Whole.

House resolves itself into Committee.

A Committee of the Whole House shall be appointed by resolution, "That this House will resolve itself into "a Committee of the Whole."—Standing Order 378.

Speaker leaves the Chair.

When such a resolution has been agreed to, or an Order of the Day read for the House to resolve itself into Committee, the Speaker shall put a Question, "That the Speaker do now leave the Chair," which being agreed to, he shall leave the chair accordingly.—Standing Order 379.

When Committee has reported progress.

When a Bill or other matter (not being connected with the Estimates) has been partly considered in Committee, and the Chairman has been directed to report progress, and ask leave to sit again, and the House has ordered that the Committee shall sit again on a particular day, the Speaker, when the order for the Committee has been read, shall forthwith leave the Chair without putting any Question, and the House thereupon resolve itself into such Committee.—Standing Order 380.

As soon as the Speaker has left the Chair, the Chairman shall take the Chair of the Committee at the Table.—Standing Order 381. The Chairman takes the Chair.

The mode of appointing a Chairman has already been described *(vide ante*, pp. 49-52). Appointment of Chairman.

During prolonged sittings the Chairman has been allowed to withdraw for a while, and another Member takes his place, without a Question put, or any interruption to proceedings. If, by any accident, the Chairman should not be present in the House when the House resolves itself into a Committee of the Whole, or when the order for going into Committee has been read, in cases where progress has been previously reported, it has been customary for some other Member to take the Chair, and proceed with Business, pending the arrival of the Chairman of Committees. Temporary Chairmen.

The Chairman calls upon Members to speak, puts the Question, maintains order, and gives the casting vote where necessary *(vide ante*, pp. 96-103). Chairman's Duties.

Proceedings in Committee may be interrupted by the Speaker resuming the Chair, without a Question, if sudden disorder arises; or by the announcement of a Message from the Governor; or by want of a Quorum, when the Chairman leaves his Chair, and the Speaker resumes the Chair. In this case the Speaker is informed by the Chairman of the want of a Quorum. If a Quorum can be made up while the Speaker is counting the House, the Committee is again formed without a Question. Proceedings liable to interruption.

The following Standing Orders regulate procedure in Committee:— Standing Orders.

382. A Committee shall consider such matters only as shall have been referred to it by the House. A Committee to consider only matters referred.

394. When all matters referred to a Committee have been considered, the Chairman shall be directed to report the same to the House; and when all such matters have not been considered, the Chairman shall report progress, and ask leave to sit again. Report. Report of progress.

Motion to report progress.

395. A Motion may be made during the proceedings of a Committee, "That the Chairman do report pro-" gress, and ask leave to sit again."

Motion that the Chairman leave the Chair.

396. A Motion, "That the Chairman do now leave " the Chair," will, if carried, supersede the proceedings of a Committee.

Report brought up without Question.

397. Every Report from the Committee of the Whole House shall be brought up without any Question being put.

Resolutions of Committee.

398. The resolutions reported from a Committee may be agreed to or disagreed to by the House, or agreed to, with amendments, recommitted to the Committee, or the further consideration thereof postponed.

Motion not seconded in Committee.

Motions in Committee do not require a seconder.

Previous Question.

The Previous Question cannot be moved in Committee.

> The principle of this rule does not seem clear at first sight; but it may be based upon the fact that the Motion "That the Chairman do now leave the Chair" has the same effect as the Previous Question.

Powers of Committee limited.

A Committee of the Whole House is not an independent body. It is created by the House to consider such matters as the House commits to it. If therefore it is desirable to enlarge the scope of the matter, an instruction to the Committee must be moved in the House *(vide posthac*, Instructions to Committees).

Questions remitted to Committee, nature of.

The House remits to Committees of the Whole all matters of finance, trade, grants of public money, and whatever else is deemed to require more ample discussion, and the interposition of more deliberation and delay than the House itself allows or provides. To the Special Committees of Supply, and Ways and Means, are committed—the Annual Estimates to the former, and all matters of Taxation and raising Revenue, and making good the Supplies granted, to the latter.

Bills.

Every Bill is also considered in a Committee of the Whole House.

Supply and Ways and Means—Bills.

The functions and procedure of the Committee of Supply and of Ways and Means, and of Committees on Bills, will be discussed subsequently.

Instances of Questions considered in Committee.

It will be sufficient to quote a few instances of the class of Questions referred to what may be termed an Ordinary Committee of the Whole.

Thus, the House has remitted the Questions of—

Silver coin as a legal tender (V. & P., 1860, p. 32):

Defence of the Colony (V. & P., 1861, p. 171):

Amoval of a Judge *(ibid.*, p. 258):

Management of the Waterworks (V. & P., 1864, p. 87):

Waste Lands Regulations (V. & P., 1867, p. 288):

Waste Lands System of Sale and Disposal (V. & P., 1868-9, pp. 90, 91):

Resumption of Female Immigration (V. & P., 1868-9, p. 285).

Permission to carry on certain Trades in proclaimed Districts (1869-70, p. 143):

Colonial Federation *(ibid.*, p. 256):

Customs Regulations (V. & P., 1870-71, p. 259):

By-laws of a Corporation *(ibid.*, p. 321):

Education System *(ibid.*, p. 214):

Payment of Members (V. & P., 1871, p. 104):

Postal Rates Reduction *(ibid.*, p. 46):

Proclamation of Customs Act in Northern Territory (V. & P., 1872, p. 252):

Postal Communication between Port Adelaide, Port Darwin, and Batavia (V. & P., 1876, p. 96):

Education Regulations (V. & P., 1879, p. 34):

Report of Finance Commission (V. & P., 1880, p. 82, and 1882, p. 22).

And occasionally Addresses have been considered in Committee of the Whole *(vide ante*, pp. 71, 72).

Question for Speaker to leave the Chair generally affirmed.

When the Speaker puts the Question, "That I "do now leave the Chair," the Question may be affirmed or negatived. It is usual, however, to allow the House to go into Committee, and decide the matter therein. If notice has been given of resolutions intended to be proposed in Committee, it is irregular

Proposed resolutions not discussed in House.

to anticipate the discussion of them on the Question that the Speaker do now leave the Chair, as the House can have no cognizance of them till reported by the Committee (Cf. May, Practice of Parliament, p. 433).

Amendments to Question.

If an Amendment be proposed to the Question, viz., to strike out all the words after "That," with a view to substitute others in lieu, and the House negative the Amendment, by affirming that the words stand, no other Amendment can be offered.

If such an Amendment be carried, the House does not go into Committee.

Practice in Supply.

In Committee of Supply the practice differs. If the Amendment be carried, and it is, nevertheless, desired to proceed with Supply, a Motion may be made that the House will immediately resolve itself into Committee of Supply, when, a second Question for the Speaker leaving the Chair being proposed, another Amendment may then be offered (Denison's Decisions, pp. 187, 188).

Chair of Committee taken.

If the Question for going into Committee be decided in the affirmative, the Chairman takes the Chair of the Committee; and the House being then duly in Committee, the Chairman calls upon the Member to propose the resolution standing in his name.

Procedure.

The proposed resolutions are then debated in the fullest manner, and are open to any Amendment which it would be competent to move to such resolutions, if proposed in the House.

Amendments in Committee.

"In Committee, Amendments are proposed to the "'proposed resolution,' and not to the 'Question,' as in "the proceedings of the House" (May, Practice of Parliament, p. 434).

Resolutions, how dealt with.

A resolution in Committee must be withdrawn, negatived, agreed to, or amended and agreed to. It cannot be postponed.

Committee cannot adjourn or postpone.

A Committee of the Whole House cannot adjourn its own sittings, or adjourn the consideration of the matter referred to it, to another day. If, therefore, it is unable to conclude its Business at the sitting, or desires not to proceed further that day, a Motion is made, at any time during the proceedings of the Committee, that

the Chairman report progress, and ask leave to sit again, which is equivalent to the adjournment of debate in the House. The House thereupon resumes, and the Speaker takes the Chair. Progress reported.

The Chairman makes his Report that the Committee have considered certain resolutions, made progress therein, and ask leave to sit again. Mr. Speaker then puts it to the House "That the Committee have leave "to sit again," on whatever day is desired. Leave given to sit again.

The sitting of the Committee accordingly appears on the Notice Paper amongst the Orders of that Day, and upon the Order of the Day being read, the Speaker leaves the Chair without a Question *(vide* Standing Order 380). Entry on Notice Paper.

This rule does not apply to the Committees of Supply and Ways and Means. Practice differs in Supply and Ways and Means.

When the Committee has come to a final decision, the Chairman is directed to report the same to the House. Report.

> The Standing Orders enact that a Report shall be brought up without a Question being put.—Standing Order 397. Standing Order, and ordinary practice as to Report.
>
> But the ordinary practice is, when the Committee have considered resolutions, and decided thereon, for the Chairman to put a formal motion, "That the reso- "lution be reported," or sometimes, "That the Report "be brought up." No record of this, however, is entered in the Journals, the wording of the entry being, "Resolution to be reported."

The House having resumed, the Chairman reports to Mr. Speaker that the Committee has come to a certain resolution, and moves that the Report be now received. If the House orders the receipt, the resolutions are then read by the Clerk, and Mr. Speaker puts the Question, that the resolutions come to by the Committee of the Whole House be agreed to. Procedure o Report.

Such resolutions may be agreed to, disagreed to, amended and agreed to, recommitted, or postponed. Resolutions which have been recommitted, may, when reported, be again recommitted. Resolutions, how dealt with on Report.

Should the Committee have negatived the resolution considered by them, the Chairman reports to the House that the Committee have negatived the Motion, and the matter drops.

Chairman leaves Chair.

When it is desired to dispose of a matter which is before a Committee of the Whole House, but without coming to a decision thereon, it is the practice to move, "That the Chairman do now leave the Chair."

This Motion, if carried, supersedes the proceedings of the Committee, just as an adjournment of the House supersedes a Question. In this case no Report is made from the Committee.

No Report.

Count out.

If a Committee be counted out, such Committee may be revived on a future day, upon Motion, of which Notice has been given.

Rule as to Dilatory Motions.

What may be termed Dilatory Motions, *ex. gr.*, "That the Committee do now divide," "That the "Chairman report progress," "That the Chairman "leave the Chair," are subject to the same rules in Committee as in the House *(vide ante*, pp. 129, 130).

Proceedings of House not discussed.

A Committee cannot discuss the proceedings of the House.

Abstract Questions not necessarily discussed in Committee.

An abstract Question, which, if affirmed, implies future action involving expenditure, does not necessarily require to be discussed in Committee.

Thus, on September 13th, 1871. a Motion affirming the expediency of reimbursing Members of Parliament, and for an Address to the Governor for the necessary steps to effect this object, was made in the House. But when an amendment was moved, indicating an amount to be paid, the Speaker ruled that the Question had ceased to be an abstract one, and affected finance, and accordingly put the Question for the House to go into Committee (V. & P., 1871, p. 104).

Question proper for Committee decided on Motion that the Speaker leave the Chair.

Cases have occurred where a Member has been allowed to set forth, with the Speaker in the Chair, the matter which he desires the House to go into Committee to consider. But this has been done by consent, to save time and discussion, the matter being decided on the Question for going into Committee. The practice, however, as mentioned above, is irregular.

THE COMMITTEE OF SUPPLY AND THE COMMITTEE OF WAYS AND MEANS.

House grants Supplies.

The Governor's Speech at the commencement, and that at the close, of each Session recognises the peculiar privilege of the House of Assembly to grant all Supplies.

Opening Speech and Closing Speech recognises this right.

A paragraph in the Opening Speech, specially addressed to the "Gentlemen of the House of "Assembly," informs the House that the Estimates will be laid before them.

A corresponding paragraph in the Closing Speech thanks the House for the Supplies voted, and gives assurance of their economical expenditure.

Constitutional principle of grants to the Crown.

The Constitutional principle underlying the practice of Parliament in respect of money grants, otherwise Supply, and making good the same, in other words, providing the Ways and Means, may be shortly stated. The Crown makes known the pecuniary necessities of the Government; the House, in Committee of Supply, grants the Supplies necessary to satisfy the demand made; the House, in Committee of Ways and Means, votes the necessary moneys "towards making good "the Supply granted to Her Majesty"; finally, by the Appropriation Act, which is ordinarily reserved until the end of Session, complete legal sanction is given, and a legal appropriation effected.

Committees of Supply and Ways and Means distinct in function but similar in practice.

Though the functions of the two Committees—of Supply and of Ways and Means—are essentially distinct, and the terms of their appointment define their specific functions, their relations are so intimately

connected, and there is so much in their procedure common to both, that it will be more convenient to embrace them within the limits of one chapter.

Money votes initiated by suggestion of Crown.

The principle of waiting for the suggestion and authority of the Crown for the voting of public money is embodied in the procedure by which the Committee of Supply is created or set up.

As already stated, a paragraph in the Opening Speech informs the House that the Estimates for the next financial year will be laid before the House.

Initial procedure in setting up Supply.

So soon as the Address in Reply to the Opening Speech has been agreed to, the House immediately orders, on Motion made and Question put, that the Speech be taken into consideration at the next sitting of the House. The Standing Order reads as follows:—

Supply.

35. The Address having been agreed to, the Governor's Speech shall be ordered to be taken into consideration at the next sitting of the House. The House, at its next sitting, shall proceed, in Committee, to consider the Governor's Speech, and the Chairman having read so much as relates to Supply, a resolution shall be agreed to, "That a Supply be granted to Her "Majesty," which resolution shall be reported; and the House shall then resolve that it agrees with the resolution that a Supply be granted to Her Majesty, and will, on_____resolve itself into a Committee of the Whole to consider the supply to be granted to Her Majesty.

Entry on Notice Paper.

Accordingly, on the next issue of the Notice Paper, it is set down amongst the Orders of the Day on which the House next sits—"Consideration in Committee of "His Excellency's Opening Speech."

Paragraph relating to Estimates read by Chairman.

On the Order of the Day being read by the Clerk, on Motion, the House goes into Committee, and the Chairman reads the paragraph of the Speech relating to the Estimates. Thereupon it is resolved that a Supply be granted to Her Majesty, and the Chairman is directed to report the same to the House, and ask leave for the Committee to sit again.

On the House resuming, the Chairman reports to the Speaker the resolution come to by the Committee, and their request for leave to sit again. Report, and leave to sit again.

The resolution is then read by the Clerk, and Mr. Speaker duly puts to the House the Question, that this House agrees to the resolution that a Supply be granted to Her Majesty, and will, on_____ resolve itself into a Committee of the Whole to consider the Supply to be granted to Her Majesty. Procedure on receiving resolution of Supply.

The Committee of Supply is now regularly constituted, and is not allowed to expire till it has made its final report to the House. Duration of Committee.

> Henceforth, on every Notice Paper, "Supply, in "Committee," appears among the Orders of the Day, from day to day, according as the House gives its leave to sit again. So soon as the "Estimates" are brought down, or any other matters referred to the Committee to be voted therein, an entry, in brackets, indicating such matter, follows the words "Supply, in Committee," on the Notice Paper. Entry on Notice Paper.

Until the "Estimates" are brought down, there is nothing practically before the Committee of Supply. Whenever the Order of the Day "Supply in Committee" is read, on Motion from the Government Benches, it is postponed from day to day, until the "Estimates" are received and the Treasurer is ready to make his annual financial statement, which is made in Committee of Supply on moving the first vote in the Annual Estimates. Committee of Supply awaits "Estimates." Ordinary practice prior to Estimates.

This would be the regular ordinary procedure. But, owing to the financial year ending, under the present system, on June 30th, there is no Parliamentary Authority for July expenditure. Consequently it becomes necessary to pass Supply Bills. The House therefore, so soon as necessary, after the Estimates have been referred to them, goes into Committee of Supply, not to consider the Estimates, but to grant Supplies for a limited period towards defraying the expenses of the Establishments and Public Services. A provision is made that there shall be no excess on the sums voted Present practice owing to arrangement of financial year. General Supply based on previous Estimates.

for similar purposes for the year last expired, except so far as such votes are modified by the Civil Service Act, 1874, which provides for annual increases in certain cases.

Procedure in Committee.

The House then having gone into Committee of Supply, a resolution is moved granting whatever sum, and for whatever period, is asked for by the Government of the day. The resolution is ordered to be reported and leave asked for the Committee to sit again.

On Report.

The House having resumed, the Chairman reports to Mr. Speaker that the Committee have come to a resolution and ask leave to sit again.

Suspension of Standing Orders to facilitate Supply Bill.

As in these cases time is an object, and resolutions reported from the Committee of Supply cannot be received the same day as reported, it is usual to place on the Paper a contingent Notice of Motion for the suspension of the Standing Orders, to enable the Report of the Committee of Supply to be at once received, and the House to resolve itself into a Committee of Ways and Means, and all proceedings connected with a Supply Bill to be taken without delay. If the House, as is the custom, grants the suspension, the resolutions which have only been reported are at once read.

Report agreed to, and Committee kept alive.

A motion is then made to agree to the Report of the Committee, and that the Committee have leave to sit again on a future day. Thereupon, on Motion, the

Ways and Means and Supply Bill.

House goes into Committee of Ways and Means, and having granted the sum necessary to make good the Supply, the House agrees to such Report and orders a Supply Bill giving effect to such resolution, which is generally passed through all its stages and carried to the other House the same afternoon.

More than one Supply Bill necessary during Session.

It usually happens that more than one Supply Bill is required before the Estimates are closed. But, as the procedure is the same as in the case of the first Bill, further consideration is unnecessary, as the practice will be referred to hereafter.

Supply reported before Estimates voted, &c.

It will be noticed, in the practice under consideration, that the Committee of Supply makes a report

before it has voted a single line of the Estimates, and that the Committee of Ways and Means makes good the Supply, and the Supply Bill gives legal effect to the grant, although it is competent for the Committee of Supply hereafter to alter any and every item on such Estimates in the way of reduction, or to increase any of them, if recommended by the Crown. This procedure is justified on the grounds that the House has received, by Message, the Annual Estimates, and therefore has before it the requirements of the Crown, the various services it deems necessary, and the amount it seeks to have appropriated in each case. But it is a question of grave Constitutional import whether the House is justified in granting Supplies in Committee of Supply, in making good the Supplies in Committee of Ways and Means, and in giving legal effect to such resolutions by a Supply Bill, before any Estimates have been laid before Parliament; and when the Committee of Supply has nothing before it but the paragraph of the Opening Speech, which created it, and which, having created the Committee of Supply, may be said to have discharged its functions. The paragraph in the Speech neither asks for Supply nor recommends the House to make provision; and when the Committee of Supply is set up in the first instance, it merely affirms that a Supply be granted to Her Majesty, while it asks leave to sit again on a future day to consider the Supply to be granted, with the evident intention of having the Estimates before it.

Granting of Supply and Supply Bill before Estimates received.

But, on July 26th, 1881, a resolution was reported from the Committee of Supply, granting a sum of £400,000 for Establishments and Public Services; and, the Standing Orders being suspended, a Supply Bill was passed that afternoon; a Governor's Message, recommending such Bill, being received subsequent to the third reading of the Bill. The Annual Estimates were not laid before the House until August 11th.

Instance.

In the Session of 1884, a Governor's Message was received on July 23rd, recommending the House to

make provision, by Supply Bill, for the Public Service. A Supply Bill, founded, as usual, upon resolutions of the Committee of Ways and Means, in their turn based upon a Report from Committee of Supply, was passed on July 24th. The Annual Estimates were not received till August 5th.

Supply Bills.

It has been stated that more than one Supply Bill is usually required to meet the exigencies of the Public Service before the Estimates are closed and the final Appropriation Bill passed. It is the general practice to take two Supply Bills, or even a third, when the House limits the amount and refuses to grant sufficient to cover the whole of the probable expenditure for the financial year. It will be more convenient to discuss these, so to speak, anticipatory proceedings in Supply, Ways and Means, and in the House, before dealing with the regular work of the Committee of Supply in voting the Estimates, &c., the consequent procedure in Ways and Means, and the final action in the House in passing the Appropriation Bill.

The practice referred to has grown up in consequence of the change in the financial year.

Change in financial year.

It does not fall within the scope of this work to discuss the arguments for and against the financial year agreeing with the calendar year. It is sufficient to say that on August 14th, 1873, the then Treasurer (Hon. L. Glyde) carried a motion—"That this House "is of opinion that the next Estimates should be "arranged for the first six months of 1874, and that "for the future the financial year should run from "July 1st to June 30th." The necessity for temporary Supply Bills was suggested at the time. The practice which has been followed is not characterised by unvaried uniformity.

Report prior to Supply Bill.

On the first occasion, July 9th, 1874, the Committee of Supply having made some progress in the Estimates, the Chairman was ordered to report; and the Standing Orders being suspended, the report was received and agreed to, the grant of the Committee of Supply being £257,352. The suspension of the Standing Orders

enabled the House to go into Committee of Ways and Means, and this Committee granted £200,000 to make good the Supply granted for the year ending June 30th, 1875, the close of the financial year.

Supply Bill limiting period.

The Supply Bill which was brought in and passed the same day, based upon the resolutions of the Committee of Ways and Means, applied the sum to the service of the three months ending September 30th, 1874.

It will be noticed that the amount was less than the grant reported from the Committee of Supply, and the term of three months was fixed. In the following Session was introduced the practice which has been more generally followed of late years.

General practice since 1874.

On July 6th, 1875, the Estimates were received by Message, and subsequently on the same day the House went into Committee of Supply, and resolved—"That "towards defraying the expenses of the establishments "and public services for the three months ending Sep- "tember 30th, 1875, a sum of £200,000 be granted, "provided that no payments for any establishments or "services be made in excess of the sums voted for similar "establishments for the year ended June 30th, 1875, "except so far as such votes are modified by the Civil "Service Act, 1874." The resolution was reported.

The Standing Orders being suspended, pursuant to Contingent Notice, the resolution was received, read, and agreed to, leave being given to sit again.

Lump sum reported, not specific votes.

The Committee of Ways and Means made good the Supply, and a Supply Bill, in terms of the grant, was passed through all its stages. It will be seen that in this case, as in subsequent ones, no specific vote had been taken; but a lump sum was granted in Supply, made good in Ways and Means, and confirmed by a Supply Bill.

First Supply Bill.

Estimates reported.

On September 21st, the main Estimates for the year were reported; and, on September 28th, the resolution of the Committee of Supply, granting £920,588 2s., was agreed to.

Second Supply Bill based on report of Supply.

On September 29th, the Committee of Ways and Means granted the sum of £720,588 2s. to make good the Supply, and a Supply Bill was passed for the amount for the year ending June 30th, 1876. The two Supply Bills represent the exact amount of the grants in Supply.

The same course was adopted in 1876.

Procedure in 1877.

First Supply Bill.

In the next Session it became necessary to take three Supply Bills. The Estimates were received, by Message, on June 26th, 1877; and, on June 28th, a Supply Bill was passed for £300,000, for the three months ending September 30th, after the usual preliminary proceedings in Supply and Ways and Means.

On September 27th, the resolutions of the Committee of Supply—the Committee having voted the main Estimates—were agreed to, the amount granted being £524,858 12s. 4d.; and, on October 4th, in Committee of Ways and Means, it was moved that a further sum of £224,858 12s. 4d. be granted to make good the Supply. An Amendment was moved to insert "£110,000," in lieu of the amount proposed; and ultimately the Committee, which had not come to a resolution, failed to obtain leave to sit again.

Second Supply Bill (one month).

On October 11th, the Committee was revived, and the sum of £100,000 being asked for, for the month ending October 31st, it was granted, and a Supply Bill giving effect thereto passed.

Third Supply Bill (one month).

On November 8th, further resolutions of Supply, to the extent of £400,227 10s. 4d., were agreed to; and a further sum of £100,000, for the month ending November 30th, was granted by a (third) Supply Bill.

In 1878, the practice was identical with that of 1876 and 1875; and, in 1879, one Supply Bill was sufficient, a lump grant of £400,000 having been made in Committee of Supply.

Procedure, 1880.

Two Supply Bills before Report.

In the following Session, 1880, two Supply Bills were passed, viz., one for £400,000 for the first three months of the financial year, and a second for £400,000 for the year ending June 30th. No resolutions of the

Committee of Supply on the Estimates had been reported at the time of the passing of the second Supply Bill.

Procedure, 1881.

In 1881, as already instanced, a Supply Bill for the first three months for £400,000 was passed on July 26th, at a time when the Estimates had not been received. Some delay was purposely interposed between the third reading and passing, to allow of a Governor's Message being brought down, recommending the Bill. A second Supply Bill was passed at a later period of the Session, but by this time the Estimates were before the House, although no line had passed.

First Supply Bill before Estimates received.

Governor's Message.

Second Supply Bill subsequent to Estimates.

Procedure, 1883-4.

In the Session of 1883-4, on July 24th, the Estimates were received prior to the first grant of a lump sum of £400,000 for the service of the first three months, and the first Supply Bill.

Estimates before first Supply Bill.

Second Supply Bill.

On October 23rd, a second Supply Bill being necessary, it was recommended by a Message from the Governor, the Message specifying the amount, £400,000, and for the service of the "period com- "mencing October 1st, 1883, and ending June 30th, "1884."

Governor's Message.

Third Supply Bill.

On November 20th, a Message was received, recommending the House to make provision by Bill, to the extent of £400,000, for the Public Service during the year ending June 30th, 1884; and a third Supply Bill was accordingly passed. Messages recommending the Bill do not dispense with the necessity of the preliminary proceedings in Supply and Ways and Means.

Governor's Message.

It was formerly the custom to have recourse to Votes of Credit instead of Supply Bills. The practice was to move an Address to the Governor, praying him to authorise the Treasurer to make payments of salaries to the several public officers for the month, for amounts not exceeding those on the Estimates received from the Governor, except those items which have been altered by the House, and to liquidate all accounts for Public Works and Supplies for the Departments which

have been sanctioned by votes of the Legislature. The reply of the Governor was to the effect that he had authorised the Treasurer to make the payments of salaries and accounts for the current month mentioned in the Address (V. & P., 1860, p. 134; 1861, pp. 187, 246; 1862, pp. 163, 169, 230, 239, 289, 291; 1863, pp. 148, 186).

Business practice and procedure in Supply.

We may now proceed to consider the principal business of the Committee of Supply, the practice observed, and the rules which govern its procedure.

The appointment of the Committee, and the method by which it is created or set up, has already been explained.

Premature creation of Committee of Supply, 1881.

In the Journals of 1881 will be found a remarkable instance of a premature creation of the Committee of Supply. On June 2nd, Parliament was opened by the Governor, and, in due course of the proceedings of the House, the Speaker read to the House the Speech made by His Excellency. The usual Committee was at once appointed to prepare the Draft Address in reply, and report on June 7th. Motion was thereupon made by the Treasurer that so much of the Governor's Opening Speech as relates to Supply be taken into consideration on Tuesday, June 7th, with a view to the adoption of the Motion "That a Supply be granted to Her Majesty"; and the Question was put and passed. Accordingly, on June 7th, the Address having been agreed to that day, the House went into Committee of the Whole to consider the Opening Speech. The paragraph relating to Supply was read; the usual resolution passed, reported, and agreed to by the House; and a future day ordered for the House to go into Committee to consider the Supply to be granted. The original Motion should not have been made until after the Address had been agreed to, as the course pursued was in violation of the Standing Orders, and no suspension thereof had been carried.

Suspension of Standing Orders to allow immediate creation of Committee, 1872.

In 1872, immediately upon the Address being agreed to, the Standing Orders were suspended, by Motion on Notice, to enable the Committee of Supply to be at once set up (V. & P., 1872, p. 13).

Estimates received by Message.

It is desirable that the House be informed as early as possible of the expenditure for which it will have to provide. So soon as the Estimates have been finally settled in the shape in which they are to be presented

to the House, they are transmitted by Message by the Governor. The Message is at once read by Mr. Speaker, the form thereof being—"The Governor "recommends the House of Assembly to make appro- "priation of the several sums set forth in the accom- "panying Estimates of Expenditure by the Govern- "ment during the year ending June 30th _____."

Thereupon Motion is made that the Estimates be referred to the Committee of Supply. Referred to Committee of Supply.

The regular sittings of the Committee, as distinct from those sittings already described to enable Supply Bills to be passed, are deferred until the Treasurer is prepared to make what his commonly termed his Budget Speech, but would be more correctly described as the Annual Financial Statement. Committee defers regular business till Financial Statement made

> A Budget Speech strictly refers to the imposition, repeal, reduction, continuation, or augmentation of taxes, and therefore ought to be made in Committee of Ways and Means. The Financial Statement is properly made in Committee of Supply, being a survey of the past and present financial condition of the State, and of its future prospects. It is, in other words, an elaborate balance-sheet given orally with the fullest details. Budget Speech and Financial Statement defined.

It is usual for the Finance Minister to acquaint the House beforehand with the date on which he proposes to make his Financial Statement. On the Order of the Day—Supply, in Committee—being read by the Clerk at the Table, Motion is made and Question put—"That the Speaker do now leave the Chair." Order of the Day read, and consequent Motion.

> As on the occasion of the Financial Statement it is customary to pass this at once in the affirmative, the consideration of the Amendments which may be moved to this Question will be deferred for the present. Motion usually affirmed on this occasion.

The House being in Committee, the Treasurer makes his statement, and concludes by proposing the first vote on the Estimates. The invariable practice is for progress to be reported at this stage, as Members desire to see the speech in print, and fully debate the position of affairs, the discussion being continued over several days. Financial statement made. First Vote moved. Progress reported.

Principle of progress not applied to Supply and Ways and Means.

What has been termed the principle of progress does not apply to the Committees of Supply and Ways and Means, as it does to Committees on Bills or other matters.

Committee of Supply and Ways and Means can only sit on Motion made and Question put and passed.

On every occasion, before going into Committee of Supply, or Ways and Means, the Question for the Speaker leaving the Chair must be put, and every description of Amendment to the Question may be moved. Upon other Orders of the Day Amendments must be relevant, but here they may relate to every Question upon which any Member may desire to offer a Motion.

Amendments and debate. Latitude.

This practice, and the practice of offering observations on any matter on the Question for leaving the Chair, is a survival of the constitutional doctrine of the redress of grievances before granting Supplies.

The rules of relevancy in debate are wholly ignored on these occasions. Some limitation, however, is imposed, which will be described hereafter.

Amendments put in usual way.

On the Order of the Day "Supply in Committee" being read, and the Speaker putting the Question—"That I do now leave the Chair," any Amendment thereto is put in the usual way.

Amendment negatived. Effect.

If the House negative the Amendment by affirming that the words proposed to be left out stand part of the Question, no other Amendment can be moved.

But a Member is still at liberty to call attention to a particular case by observations (Denison's Decisions, p. 190; Brand's Decisions, 1872-1880, pp. 200, 207).

If Amendments are, by leave of the House, withdrawn, other Amendments can be offered.

Amendment not moved on Amendment till first becomes substantive Motion.

If an Amendment be moved to the Question for leaving the Chair, it is not competent to move an Amendment to that Amendment, unless the first Amendment be carried, and so becomes a substantive Motion (Denison's Decisions, pp. 186, 187).

No Motion except as Amendment to main Question.

No Motion can be made, on Motion made and Question put—"That Mr. Speaker do now leave the "Chair," except as an Amendment to that Question (Denison's Decisions, p. 187).

If an Amendment to the Question—"That Mr. "Speaker do now leave the Chair" be carried, the Motion for leaving the Chair is thereby superseded. But the Order of the Day, which has been read, is not superseded, and as the Committee cannot be suffered to drop, it is customary for a Minister to move that the House should immediately resolve itself into a Committee of Supply, and that Mr. Speaker do now leave the Chair. Or, if not desired to proceed with Supply that day, a future time for the sitting of the Committee may be appointed at once. Or Notice may be given at the usual time for the consideration of Supply on a future day. The Question for the Speaker leaving the Chair is again proposed, and is open to Amendment as before (cf. V. & P., 1869-70, pp. 304, 307, 324; Denison's Decisions, pp. 187, 188).

Amendment carried. Effect.

Consequent Motion to keep alive Committee.

If the House negative the Question—"That the "words proposed to be left out stand part of the "Question," and also negative the Amendment for adding words, and any other Amendments to add words so that the Question is reduced to the word "That," words may be added to postpone the Committee to another day, or for the House to immediately go into Committee of Supply (May, Practice of Parliament, pp. 660, 664).

Main Question and Amendment negatived.

Subsequent procedure.

Sometimes the House has negatived the Question for going into Committee of Supply without any Amendment having been proposed. In this case the Committee has been immediately ordered to sit again next day, or has been revived by Motion on Notice—"That "the consideration of the Estimates in Committee of "Supply be now resumed" (V. & P., 1863, p. 300; 1874, pp. 128, 142).

Question negatived, and no Amendment.

Subsequent order.

If the House is unwilling to go into Committee of Supply, and does not desire to propose any Amendment, or negative the Question, the Motion, after debate, has been withdrawn, and the Order of the Day postponed to a subsequent date (V. & P., 1864, p. 260).

Order of the Day postponed.

Estimates.

When the House agrees to go into Committee of Supply to consider the Estimates—the discussion on the Financial Statement being closed—the Chairman reads the first vote, *ex. gr.*, "The Legislature," with the amount proposed in the printed "Estimates."

First vote read from the Chair.

"Vote" defined.

By the word "vote" is understood in Committee of Supply the total of a division of the Estimates, *ex. gr.*, "The Legislature," "Private Secretary," "Office of "Chief Secretary," "Audit," &c.

"Item" defined.

By the word "item" is understood a specific line in a vote; *ex. gr.*, in vote, "Court of Insolvency," a line, "Clerk, £110," is an item.

Votes may be put by items, by request.

It is competent for any Member to ask that the vote be put from the Chair, item by item; but the more ordinary practice is for the Chairman to put, in Departmental Estimates, the total, and for any Member to call attention to the particular item about which he desires explanation, or which he may seek to reduce or strike out.

Certain votes put item by item.

Certain votes, such as "Works and "Buildings" and "Miscellaneous," which appear at the end of the "Estimates," are put from the Chair, item by item, almost as a matter of course, and without request to that effect, as they are practically independent votes, not having that connection which exists between the items of a Departmental Estimate.

Amendments to Question upon total.

When the Question upon the whole vote is proposed from the Chair, it is competent for any Member to move for the reduction of the entire vote, to omit any item comprised in such vote, or to reduce any item.

Prior Amendments not permitted unless subsequent withdrawn.

If a motion is made for the reduction of an entire vote, no proposal can be made for omitting an item from that vote, unless the original motion be withdrawn (May, Parliamentary Practice, p. 671).

If a motion is made to reduce or omit any item, it is not competent to move to reduce or omit any previous item, unless the first motion is withdrawn.

General identity of practice in all Committees of Whole House.

The rules of proceeding in the Committees of Supply and Ways and Means are similar to those observed in other Committees of the Whole House.

The following special Standing Order applies to the Committee of Supply :— Special Standing Order.

Unless otherwise ordered by Sessional Order, the following rules shall be observed in Committee of Supply :— Rules in Committees of Supply.

(1) When a Motion is made in Committee of Supply to omit or reduce any item of a vote, a Question shall be proposed from the Chair for omitting or reducing such item accordingly; and Members shall speak to such Question only until it has been disposed of.

(2) When several Motions are offered, they shall be taken in the order in which the items to which they relate appear in the printed Estimates.

(3) After a Question for omitting or reducing any item has been disposed of, no Motion shall be made or debate allowed upon any preceding item.

(4) It shall be held to be in order, at any time during the discussion of an Estimate, or item in an Estimate which has not been previously amended, to move the postponement of such Estimate or item; provided such postponement be until the whole of the Estimates or Supplementary Estimates for the year for which the proposed vote is intended to be taken shall have been disposed of.—Standing Order 400.

Under the Standing Orders applicable to all Committees of the Whole House, and therefore to those of Supply and Ways and Means, it is enacted—

When there comes a Question between the greater and lesser sum, or the longer or shorter time, the least sum and the longest time shall be first put to the question.—Standing Order 386. Greater or lesser sum, longer or shorter term.

The Journals of the Session 1869-70 offer a complete collection of precedents of what may be done in Committee of Supply. In no previous or Precedents of practice, 1869-70.

subsequent Session have the annual Estimates been subject to such severe scrutiny and alterations. The Session is memorable too for an elaborate ruling of the Speaker on the Amendments which may be made in the Committee.

Instances of Amendments.

The following instances are selected to illustrate the procedure and the Amendments moved—

(1) An Amendment to reduce the item of a vote.

"The Legislature—Legislative Council."

Item—Clerk of Legislative Council £500, read.

Mr. Bright moved that the item stand at £450.

Debate ensued.

Question—That the item stand at £450.

Committee divided.

Ayes, 15; Noes, 14 (V. & P., 1869-70, p. 160; cf. also p. 161).

(2) An Amendment to reduce the total.

In this instance the term *item* is used in the Journals as equivalent to *vote*.

Item—"Supreme Court," £5,435, read.

Mr. Bright moved—That the item stand at £4,115.

Debate ensued.

Question—That the item "Supreme Court" stand at £4,115. Put and passed (V. & P., 1869-70, p. 202).

(3) An Amendment to reduce the total of a vote negatived, followed by an Amendment to reduce an item of the vote, also negatived, the item itself negatived, and the original total reduced by a sum less than that represented by the omitted item.

Item—"Private Secretary's Department," read.

Mr. Carr moved—That the item Private Secretary's Department, total £1,224 2s. 6d., stand at £1,000.

Debate ensued.

Question put and negatived.

Mr Fuller moved—That the item Private Secretary, £500, stand at £450.

Debate ensued.

Question—That the item Private Secretary stand at £450. Put and negatived.

Question—That the item Private Secretary stand at £500.

Committee divided.

Ayes, 8; Noes, 16.

The total was immediately passed, on Motion, at £1,100 *(ibid.*, pp. 166, 167).

Standing Orders not observed.

The procedure upon this occasion was a direct violation of the rule "After a Question has been proposed from "the Chair for a reduction of the whole vote, no Motion "shall be made for omitting or reducing any item." In the elaborate ruling already referred to, the Speaker had quoted this resolution adopted by the House of Commons, April 28th, 1868, the Standing Orders of the House of Assembly not providing for the specific case.

(4) An item in a vote negatived, followed by a Motion that the total vote be reduced, also negatived. and total as printed negatived (V. & P., 1869-70, pp. 171, 172).

(5) An Amendment that the total of a vote, as read, stand at a reduced amount, and a concurrent Amendment for a reduced amount, but for a sum greater than that proposed in the first Amendment, the lesser amount put first and negatived, and then the greater sum put and passed *(ibid.*, pp. 184, 185).

(6) An Amendment to strike out a vote, and concurrent Amendments offered that the total vote stand at various reduced amounts; the vote put line by line, by request, and various items struck out; the Amendments to the total put, beginning with the least sum, and a total less than that printed carried, but not corresponding with the items left in *(ibid.*, pp. 190, 191).

Amendments to reduce the items of a vote carried, the total vote proposed so as to correspond with the reductions, various concurrent Amendments thereto proposed that the vote stand at amounts greater than the corresponding total, and one such higher total carried *(ibid.*, pp. 208, 209).

An Amendment to strike out an item in a vote carried, the total corresponding proposed, and an Amendment offered to further reduce such total, and passed *(ibid.*, p. 218).

Amendments to strike out every item in a vote carried, the vote proposed in blank, *i.e.*, without any amount, and various totals proposed as Amendments to fill in the blank; the lesser sum put first and negatived, and the greater sum, being the exact amount of the vote, as printed and originally proposed, put and passed *(ibid.*, pp. 226, 227).

Standing Order 400, and resolutions House of Commons, April 28th, 1868.

Having cited the foregoing precedents, it may be as well to refer once more to the procedure in Committee of Supply, as regulated by the Standing Order 400, already quoted (paragraphs 1, 2, and 3 whereof are identical with the resolutions of the House of Commons of February 9th, 1858), and by the resolutions of the House of Commons of April 28th, 1868, which read—

(1) That, when it has been proposed to omit or reduce items in a vote, the Question shall be afterwards put upon the original vote, or upon the reduced vote, as the case may be.

(2) Resolved, that after a Question has been proposed from the Chair, for a reduction of the whole vote, no Motion shall be made for omitting or reducing any item.

Imperial practice binding in Committee of Supply.

Mr. Speaker Kingston, in his opinion on proceedings in Committee of Supply, delivered October 26th, 1869, and ordered by the House to be printed (P.P. 130, 1869-70), in anticipation of a complete recasting in Committee of the annual Estimates, concluded that the practice of the House of Commons was so binding on the House that—"Should this House be of opinion "that it is not desirable to follow the practice of the "House of Commons, it will be necessary that a new "Standing Order on the subject should be passed."

The law is thus laid down by May—

Practice in Committee of Supply.

"These new rules *(i.e.*, the resolutions of 1858 and "1868 *ut supra)* have entirely altered the practice of "the Committee of Supply in dealing with the votes "proposed.

"The Question upon the whole vote is first proposed "from the Chair, and if a Motion be made to omit or "reduce any item comprised in that vote, a Question is "put, that the item objected to 'be omitted from the "'proposed vote,' or 'be reduced by the sum of "'£_____,' as the case may be. Question proposed on whole vote and on items.

"But where a general reduction of the amount of "the vote is proposed, comprising many items, the old "form of putting the Question upon the smaller sum "is reverted to, as the rules apply to distinct items only. General reduction, practice as to

. . . . . .

"The reduction of a vote or item should be of a "substantial and not merely of a nominal amount, "otherwise the Chairman has declined to put the "Question, nor may a series of Motions be made upon "the same vote raising substantially the same issue. Nominal reductions not put from the Chair.

"Where two or more Amendments are proposed "to the same vote, the Chairman will put first that "which proposes the largest reduction, and if that be "not accepted, will proceed with the other Amend-"ments. Larger reduction put first.

"Where a Motion has been made for the reduction "of an entire vote, no proposal can be made for "omitting an item from that vote unless the original "Motion be withdrawn" (May, Practice of Parliament, pp. 670, 671). If reduction of total vote proposed, no prior Amendment allowed unless original withdrawn.

It may be added that since 1869-70 the practice has been in accordance with the strict law of Parliament.

When an item or items have been reduced or omitted from a vote, the Chairman finally proposes a total corresponding thereto. But it is still open to a Member to propose another total, even though such total represents a larger sum than would correspond with the reductions or omissions effected. Total as put corresponds with vote as amended, but may be amended.

Thus, on November 15th, 1870, the vote Military Defences, £10,710, was reduced by omitting an item, £10,000. But a Motion—"That the total vote stand "at £5,710" was made thereafter (V. & P., 1870-71, p. 316). Instance.

Power of Committee to reduce, but not to increase.

It will thus be seen that the power of the Committee, in reducing or omitting votes or items of votes, is unlimited, the method by which the reductions or omissions are effected being prescribed by rule.

But no proposed grants, whether recommended by Message direct, or in the annual Estimates, can be increased in the Committee.

Words may be altered.

It is competent for the Committee to alter the wording or condition of a vote, but no such alteration is permissible which would in effect create a new vote.

Instances.

Thus an item, "Payment to Corporation for care "of trees in front of Government Buildings, £50," was amended by striking out "to Corporation" (V. & P., 1870-71, pp. 324, 325), and two items, "Engineer-in-"Chief" (also Manager of Railways), and "Assistant "Engineer and Resident Engineer of Railways," were sought to be amended by striking out "also Manager "of Railways" and "and Resident Engineer of Rail-"ways" respectively *(ibid.*, p. 360; cf. also V. & P., 1873, p. 217; V. & P., 1874, p. 233).

Increases recommended by Message.

If it is desired to make increases to the Estimates, as originally received and laid before Members, this is effected by a Governor's Message recommending the House to make provision for such increases.

Message considered in Committee.

The Message is ordered to be referred to the Committee of Supply.

Matters referred to Committee.

In addition to the Estimates-in-Chief, the Committee of Supply also receives, by Message, a statement of the Excesses on Votes for the past financial year, Supplementary Estimates for the current year, Estimates of the Northern Territory Expenditure for the current year. The Message in each case recommends the House to make appropriation for the sums set forth, and is referred to the Committee of Supply.

Loan Estimates, practice in respect of.

In 1880, in compliance with the Progress Report of the Finance Commission, the Loan Estimates, *i.e.*, the amounts proposed to be expended from loans during the current financial year on public works, and for salaries in connection therewith, were, for the first time, submitted to the House to be voted precisely as the Annual Esti-

mates. But the Loan Estimates are not received by Message, with a recommendation to make appropriation, but are laid on by command, and considered, not in Committee of Supply, but in Committee of the Whole House.

The first resolution proposed in Committee is "That this "Committee approves of the expenditure of the sum of "£_____to be expended out of the amounts raised, "or to be raised, by loan, for the purposes already "authorised, and also set forth in such Loan Estimates, "and agreed by this Committee."

In this Committee of the Whole, unlike the Committee of Supply, items have been increased (V. & P., 1880, p. 255), while they are, of course, liable to reduction *(ibid.*, p. 274). When the whole of the Loan Estimates have been considered, the resolution finally proposed, when alterations have been made, differs somewhat from that originally offered, and is "That out of the moneys "raised, or to be raised, by loan, this Committee approves "of the expenditure of £_____during the year "ending June 30th_____for loan undertakings already "authorised, and in such amounts as shall not exceed, "respectively, the several sums of money specified in "the Loan Estimates laid on the Table of this House, "as amended and then agreed to by this Committee."

The resolution, when passed by the Committee, is at once reported to the House, and Order made that it be received and read. Motion is then made that it be agreed to (V. & P., 1880, pp. 274, 275).

If the Loan Estimates are voted as printed, the original resolution in Committee is the one finally reported to to the House (V. & P., 1881, p. 257).

Excesses on Loan Estimates and Supplementary Loan Estimates are, if such arise, submitted to a Committee of the Whole House, and treated in a similar way *(ibid.*, pp. 257, 276).

Progress reported.

During the consideration of the Estimates, whenever the Committee of Supply desires to proceed no further at that sitting, Motion is made that the Chairman report progress, and ask leave to sit again. The House having resumed, the Chairman reports that the Committee have considered Supply, made progress therein, and ask leave to sit again. Whereupon Mr. Speaker puts a Question to the House, "That the

"Committee have leave to sit again on_____" (day named by the Minister in charge of the "Estimates").

For going into Committee, Motion must be made.

The Committee of Supply stands accordingly as an Order for that day. But, as already stated, the principle of progress not applying when the Order of the Day is read, Motion must again be made, when Amendments thereto may be offered, and other matters discussed.

Resolutions reported and Report received on a subsequent day.

Whenever the Committee of Supply orders the Chairman to report that they have come to resolutions, the Chairman makes a report to the House to that effect; and the House appoints a day when it will consider the Report of the Committee of Supply. Unless the Standing Orders are suspended, the resolutions cannot be received the same day as reported.

Resolutions may be reported before Sittings closed.

Resolutions from the Committee may be ordered to be reported during the progress of consideration, and before the whole of the Estimates have been considered. In such a case the Chairman, in reporting that resolutions have been come to, also reports that he has been directed to move the House that the Committee have leave to sit again.

The practice in reporting grants of lump sums, without reference to the Estimates, having been already discussed, we shall now confine our remarks to reports made when the Committee of Supply have made some progress in the Annual and other Estimates.

Resolutions reported.

It is competent for the Committee of Supply, at any time during the sittings of the Committee on the Estimates, or other matters remitted to it, *ex. gr.*, Excesses on Votes, Supplementary Estimates, &c., to order the Chairman, on the House resuming, to report that the Committee has come to resolutions.

Resolutions considered on a subsequent day.

These resolutions cannot be received and read, nor can the Report thereof be agreed to, on the same day as agreed to by the Committee; but a subsequent day must be named by the House for what is termed the Consideration of the Report of the Committee of Supply.

But it is neither usual nor necessary for the Committee to report, nor for the House to consider the Report, before the Committee has closed, unless it is intended at once to take action to give effect to the resolutions, *i.e.*, to introduce and pass Bills to carry them into effect. Report generally postponed till further action necessary.

Although the letter and spirit of the Standing Orders, and the principles of Parliamentary Procedure, imply that the practice in respect of grants and appropriation of the Revenue should be attended with deliberation, and a fair amount of delay interposed at the various stages, practically, after the Committee of Supply has made its final Report, there are no proceedings characterised by such expedition as the sittings of the Committee of Ways and Means to make good the grants of Supply, and the passage of Bills in the House, whether of Supply or Appropriation, to give legal effect thereto. Expedition characteristic of Ways and Means, &c.

Following the practice in Committee on Bills, whenever it is moved in the Committee that the Chairman bring up the Report, it is in order to move that an item or vote be reconsidered (V. & P., 1871, p. 74). Reconsideration of vote or item.

On the Motion that the resolutions be agreed to, an Amendment may be moved that an item or vote be recommitted. If this be affirmed, the House again resolves itself into a Committee of Supply (V. & P., 1871, p. 83 ; 1873, p. 30). Recommitment.

On the same Motion it may be moved in the House that the total of a vote be reduced (V. & P., 1872, p. 531 ; 1877, p. 356). Reduction in House.

An Amendment has also been carried to refer back the Report to the Committee of Supply ; but the Committee, on bringing up their Report a second time, presented the same resolutions, which were agreed to by the House (V. & P., 1864, pp. 232, 242). Report referred back.

A resolution for recommitment, with a view to discussing a matter bearing constructively on the Estimates, has also been moved on the Motion to agree. Recommitment to discuss a matter.

Thus, on July 19th, 1865, on the Question that the Instance.

Report of the Committee of Supply be agreed to, an Amendment was moved to strike out all the words after "That," with a view to insert the following :— "The Estimates be recommitted, with a view of "taking into consideration the petition of the clergy "and laity of the Roman Catholic Church." The Petition prayed for "a change in the present system "of education as supported by public funds." The Amendment was negatived (V. & P., 1865, p. 169; cf. also p. 125).

Expedition.

Allusion has already been made to the expedition which so often characterises proceedings in connection with Supply, Ways and Means, and Bills of Supply and Appropriation.

Suspension of Standing Orders.

When it is intended to pass a Supply Bill it has become the regular practice to suspend the Standing Orders to enable the Report of the Committee of Supply to be at once received; the Committee of Ways and Means to be set up; resolutions to be passed therein, reported, agreed to by the House; a Committee appointed to prepare a Supply Bill based thereon; and the Supply Bill to pass through all its stages. The whole proceedings are treated as little else than formal, and occupy a very short space in the sitting.

Report of Supply usually considered on future day.

When the Committee of Supply has concluded its labors, and reported to the House that it has come to resolutions on the Estimates-in-Chief, Supplementary Estimates, Excesses on Votes, and Northern Territory Estimates, the more usual practice, in this case, is to name a future day for receiving the Report.

Unless Standing Orders suspended.

The Standing Orders are, however, occasionally suspended to allow of the Report being at once considered (V. & P., 1875, p. 277; 1876, p. 282).

Ways and Means—functions of Committee.

The function of the Committee of Ways and Means, in connection with Supply, is to authorise the application from the General Revenue of sums sufficient to meet the various services granted in Committee of Supply, and agreed to by the House.

Creation of Committee of Ways and Means.

The Committee of Ways and Means is not created and kept alive as is the Committee of Supply. It is set up by a simple Motion "That the House resolve "itself into a Committee of Ways and Means, &c." It has no duties until it is called to act upon resolutions from the Committee of Supply, to which it is desired to give effect. When its specific task is performed it is allowed to expire, and is again set up, on Motion, so soon as occasion arises for its services.

Resolutions.

The Committee passes separate resolutions for each of the several Services, *i.e.*, Estimates-in-Chief, Supplementary Estimates, Excesses on Votes, Northern Territory Estimates.

Resolutions received and Appropriation Bill ordered.

When the Chairman reports to the House that the Committee has come to certain resolutions, the usual practice is to suspend the Standing Orders to enable the Report to be at once taken into consideration, and all steps taken for passing an Appropriation Bill without delay. On the House agreeing to the Report, a Committee is appointed, on Motion, "to prepare and "bring in a Bill giving effect to the foregoing resolu- "tion."

Expedition in passing Appropriation Bill.

The Appropriation Bill is then presented at the Bar by one of the Committee, and is passed through all its stages, is forwarded to the other House, if sitting, and is frequently returned the same day.

Ways and Means limited by Supply.

The Committee of Ways and Means is not permitted to vote in Excess of the Expenditure voted by the Committee of Supply.

Illustration of practice.

If the Committee has already granted a sum to make good a lump sum voted in Supply before the Estimates have been considered, or any resolutions of votes on the Estimates reported, if resolutions are subsequently reported, with a view to the Committee of Ways and Means applying sums to make good such grants, the Committee of Ways and Means will only vote sufficient to balance the resolutions.

Thus, as already shown on July 6th, 1875, the Committee of Supply granted a sum of £200,000, the Committee of Ways and Means made good the Supply, and a Supply Bill for that amount was passed.

On September 21st, the Estimates-in-Chief were reported; and, on September 28th, the resolutions of Supply, granting £920,588 2s., were agreed to. But the Committee of Ways and Means only applied £720,588 2s. to make good the Supply, having already applied £200,000, or, as stated, only voted sufficient to balance the resolutions.

These lump sums must therefore be regarded as credit votes, taken on fictitious resolutions of Supply, but really on account of resolutions to be come to and reported hereafter.

Appropriation Act.

The Appropriation Act enumerates the grants made during the Session under their respective divisions, viz., Excesses on Votes for the past financial year, Estimates for the current financial year, Supplementary Estimates for the same, and Estimates for the Northern Territory; and authorises the several sums, as voted by the Committee of Supply, to be issued and paid for the purposes mentioned in the Bill.

Reserved till end of Session.

The Appropriation Bill is usually reserved till the end of Session; and there is a Constitutional irregularity in proroguing or dissolving Parliament before an Appropriation Act has been passed (May, Practice of Parliament, pp. 639, 670).

Precedents, however, occur in the Journals of Sessions wherein no such Act has passed.

Thus—

Instances of Sessions closing with no Appropriation Act, and Appropriation Acts passed in next Session.

In 1869-70, certain resolutions of the Committee of Supply, to the extent of £193,695 4s. 11d., were agreed to, and a Supply for £100,000 passed thereon, February 4th, 1870.

On February 9th, the whole Report of the Committee was agreed to; and, on February 23rd, the Parliament was prorogued, with a view to dissolution.

The Constitutional effect of this was that all the Votes of Supply were rendered void, and the sums required to be voted again in the next Session before a legal appropriation could be made.

Consequently, on the fourth day of the Session 1870-71, the Estimates-in-Chief for 1870, the Excesses

on Votes for 1868, the Excesses on Votes for 1869, passed the Committee of Supply, and, by suspension of the Standing Orders, an Appropriation Bill was passed (V. & P., 1870-71, pp. 14-18).

Again, on August 16th, the Report of the Committee of Supply on the Supplementary Estimates, 1870, was agreed to; and, on August 17th, the House went into Committee of Ways and Means to make good the Supply, £44,087 18s. 4d. The resolution was received and agreed to the same day, and an Appropriation Bill (No. 2) passed.

Standing Orders not observed.

In this case the Standing Orders were not suspended, and therefore a future day should have been named to consider the Report of Ways and Means.

On December 9th, the resolutions of the Committee of Supply on the Estimates-in-Chief for 1871 were agreed to, and the regular Appropriation Bill (No. 3) passed same day.

In the Session of 1871, the resolutions of the Committee of Supply (Excesses on Votes, 1870, and Supplementary Estimates, 1871) were agreed to, and an Appropriation Bill introduced same day, September 8th.

On October 17th, the Estimates-in-Chief for 1872 were received by Message; and, on November 23rd, Parliament was prorogued, with a view to dissolution, only one vote in the Estimates having passed the Committee of Supply.

Parliament met on January 19th, 1872; and, on April 9th, a Report of the Committee of Supply was agreed to (Northern Territory Expenditure); and, on April 24th, the Report of the Committee (Excesses on Votes, 1871, and Estimates-in-Chief, 1872) was received and passed, and the Appropriation Bill introduced and carried through all its stages. The Estimates for the ensuing year, and the regular Appropriation Bill, were passed at the close of the Session (V. & P., 1872, pp. 532, 533).

In 1873, two Appropriation Bills were passed, the

first for the Excesses on Votes, 1872, and the Supplementary Estimates, 1873 (V. & P., 1873, p. 39); and the second for the Estimates-in-Chief and for the Northern Territory for the first half of the ensuing year, 1874, a change having been made in the financial year *(ibid.*, pp. 275-277).

Since then the business of each Session has been transacted in a way not to require more than one Appropriation Bill.

Attempt to introduce Appropriation Bill prematurely.

NOTE.—In the Session 1864 an Appropriation Bill was introduced without the necessary preliminary procedure in Committee of Ways and Means, which Committee was not set up.

Immediately on the Report of the Committee of Supply being agreed to, Motion was made and Question put and passed, "That an Appropriation Bill (not "including expenditure on account of the Northern "Territory) be prepared in accordance with the Report "of the Committee of Supply." The Bill was thereupon introduced, read a first time, and ordered to be printed; and the second reading made an Order of the Day for November 29th. Attention, however, was called to this error in procedure, for the Order of the Day was read and discharged; and, on December 1st, the House went into Committee of Ways and Means, and the Appropriation Bill, based on the resolutions of the Committee, was properly introduced (V. & P., 1864, pp. 329, 332, 336).

Estimates withdrawn and others substituted.

Estimates may be withdrawn, and others substituted in lieu thereof. In this case the order referring the original Estimates to the Committee of Supply is read and discharged, and the Estimates last transmitted referred in their stead (V. & P., 1869-70, p. 122).

But, in 1872, the substituted Estimates were simply referred to the Committee, and no action was taken in respect of the former order (V. & P., 1872, p. 71).

First resolution on creation of Committee of Supply received at once.

It is expressly provided by Standing Order 35, that when the Committee of Supply has resolved "That a "Supply be granted to Her Majesty," that resolution shall be reported; and the House shall then resolve that it agrees with the resolution, and will, on_____ resolve itself into a Committee of the Whole to consider the Supply to be granted to Her Majesty. Instances occur in the Journals of a departure from this rule.

Instances of exception.

Thus, on August 6th, 1868, it was ordered that the resolution be received on a subsequent day (V. & P., 1868-9, pp. 17, 22; cf. also 1869-70, pp. 13, 16).

Not usual to debate or amend Motion for creation of Committee of Supply.

On the Motion that the Speaker leave the Chair, and the House go into Committee to consider so much of the Governor's Speech as relates to Supply, it is contrary to custom to debate the Question or move an Amendment thereto.

Taxation—Functions of Committee of Ways and Means.

We have now to consider the functions of the Committee of Ways and Means in respect of Taxation, and the procedure by which it brings into effect the manner in which it determines that funds shall be raised which are required for the Public Service.

Recommendation of Crown necessary for Taxation.

It is a Constitutional principle that no burdens shall be imposed upon the people, except such as are necessary for the Public Service. Such necessity can only be made known to Parliament by the Crown through its responsible Ministers. A new tax, therefore, cannot be imposed, nor can an existing tax be increased, except on the recommendation of the Crown.

Proposals by Private Members.

If a private Member suggest any plan of Taxation, and the Government approve it, the Constitutional course is for the Government themselves to adopt it, and propose it in Committee of Ways and Means. If it is objected by the Government that the exigencies of the Public Service do not require such a tax, the Constitutional course is for the Member to withdraw it.

Abstract resolutions.

Abstract resolutions by private Members, proposing changes in the scheme or distribution of Taxation, or the imposition of new, or the reduction of existing duties, though not contrary to rule, are regarded in the Imperial Parliament as inexpedient and impolitic.

Alternative Taxation.

But it is competent for a private Member to propose to substitute another system of Taxation, of equivalent amount, as an Amendment to that proposed by Ministers—the necessity of new Taxation, to a given extent, being already declared on behalf of the Crown.

Measures to relieve Taxation.

The Committee of Ways and Means is more concerned in imposing than in repealing or reducing taxes. Bills for such objects do not require any pre-

vious vote in Committee, and proposals therefor need not, consequently, originate in Committee of Ways and Means; for the House can always entertain any Motion for diminishing a tax or charge upon the people. But where Bills, even to reduce burdens and charges, affect the relations of trade, the more convenient and proper course is to found such Bills upon resolutions in Committee of Ways and Means (cf. May, Practice of Parliament, cap. xxi., *passim*).

Creation of Committee.

The Committee of Ways and Means, as already described, is created by a Motion, "That the House do "now resolve itself into a Committee of Ways and "Means," upon the carrying of which another Question is put—"That the Speaker do now leave the "Chair."

Amendments on Committee. Motion.

To this Question all the Amendments may be moved which it is open to move on going into Committee of Supply, and the same latitude of debate is allowed.

If the House agrees to go into Committee, the Minister on whom it devolves moves the resolutions which he desires the Committee to affirm.

Instances of resolutions.

The following precedents are quoted from the Journals in illustration of resolutions moved in Committee of Ways and Means:—

On September 7th, 1870, by the Treasurer—To repeal existing Customs Tariff and substitute another scale of Customs Duties:

On August 24th, 1875, by the Treasurer—To consider Stamp Duties, which it was proposed to impose:

On July 25th, 1876, by the Treasurer—To repeal existing Customs Tariff and to substitute another scale of Duties, and to impose Probate and Succession Duties:

On August 13th, 1878, by the Treasurer—Affirming certain principles with regard to the incidence of Taxation, imposing Land, Property, and Income Taxes, and, contingent thereon, a readjustment of the Customs Tariff:

On August 19th, 1880, by the Minister of Education—To impose Customs Duties and Export Duty on Gold:

On October 5th, 1882, by the Treasurer—To impose a Land and House Tax, a Tax upon Bank Cheques, and for leave for a Bill to be introduced to give effect thereto:

On August 21st, 1883, by the Treasurer—To levy certain Duties on Real and Personal Property and on Policies of Insurance.

Procedure in Ways and Means same as in Supply.

The procedure in Committee of Ways and Means is the same as in Supply. When progress has been reported, and the Committee stands as an Order of the Day, when the Order is read, the Question must be again put by Mr. Speaker and is open to Amendment and debate, as on going into Supply, and all the other rules are common to both Committees.

Principle of progress not applied.

Amendments to Committee. Motion.

Thus, on August 29th, 1883, on the Order of the Day being read for the Committee of Ways and Means, on Mr. Speaker putting the Question—"That I do "now leave the Chair," &c., an Amendment was proposed to strike out all the words after "That" and insert "the Question of Taxation be postponed till "after the consideration of the Pastoral Leases Bill."

The longer or shorter time.

The rule as to the longer or shorter time is more applicable to this Committee than to that of Supply, and is strictly adhered to when the time at which a tax is to commence is under discussion, the most distant time being the least burdensome. If the period of the duration of a tax is the Question, the rule as to the greater or lesser sum becomes applicable, and the shorter time will be put as representing the least sum.

Resolutions may not be increased, but alternative may be offered.

As in Supply, proposals to make additions or increases to the resolutions before the Committee are irregular, but, as already indicated, an alternative tax may be offered.

Relevancy of Motions, &c.

In the Committee a Motion or Amendment must relate to the tax proposed. But, from the nature and

functions of the Committee of Ways and Means, this rule cannot be applied so strictly as the corresponding one in the Committee of Supply.

Instances.

Thus, on September 13th, 1870, upon resolutions to repeal an existing Customs Tariff and impose other duties of Customs in lieu, as well as an annual fee on bonded warehouses, an Amendment to strike out all the words of the resolution, with a view to insert in lieu thereof, "the Committee declines to pronounce any "decision upon the proposed Customs Tariff until the "whole financial policy of the Government has been "submitted for its consideration," was allowed.

Amendments to preliminary resolutions.

Where the preliminary resolutions affirm principles as reasons for Taxation, such Questions are open to Amendment like any other Motions in Committee.

Instances.

Thus, on August 15th, 1878, the Question having been read in the Committee, "that this Committee is "of opinion," &c. (here followed five resolutions, the first three of which merely stated principles or arguments for Taxation), an Amendment was proposed after "opinion" (and before the resolutions), to insert—"no scheme for raising increased Taxation will be "satisfactory unless the incidence of Taxation, as raised "by means of Customs, is re-adjusted at the same time," and was permitted; and on this Amendment being negatived, another Amendment after "opinion," to insert —"that additional Taxation is unnecessary," was proposed (V. & P., 1878, p. 146).

This Amendment was subsequently, by leave, withdrawn, and the following proposed and carried by the casting voice of the Chairman, after "opinion," to insert—"that additional Taxation, merely for the pur-"pose of increasing the revenue, is unnecessary." A further Amendment was then proposed after the words inserted *(ut supra)* to insert—"and that certain "Customs duties should be repealed and the revenue "recouped by a tax upon property" *(ibid.*, 151).

The fourth of the resolutions referred, specifying the duties to be levied, was proposed to be amended by

words limiting the operation of the proposed duties, viz.—"Provided that none of such duties shall become "payable until the tariff shall be revised and the duties "annually collected thereunder be reduced" *(ibid.*, p. 152).

Again it was proposed as an Amendment to the sub-paragraph of resolution IV., which levied a tax upon incomes, to strike out all the words, and substitute in lieu a resolution that it was undesirable to impose Taxation upon incomes derived by actual earning.

On August 21st, 1883, in Committee of Ways and Means, the Treasurer having moved certain resolutions proposing a definite scheme of Taxation, an Amendment was moved to strike out all the words after "That" and insert—"it being necessary to raise "additional revenue to the extent of about £100,000, "it is desirable to levy the following duties," viz., an alternative scheme of Taxation.

Procedure on specific taxes similar to procedure on Estimates.

In considering the specific subjects proposed for Taxation, and the charges and duties to be levied thereon, the proceedings in the Committee of Ways and Means closely resemble the proceedings in the Committee of Supply, when considering the Annual Estimates.

Items put as a whole or separately.

The items on which one common duty is imposed are put as a whole vote, or, if desired, item by item.

Amendment, lower rate first put.

If a lower rate is proposed as an Amendment to the resolution before the Committee, the lower rate is first put to the vote. If this be negatived, a Question is then put that the item stand as printed.

Amendments to increase.

In the proceedings on the Tariff Revision in 1870, Amendments to increase the duty on certain articles above the rates proposed by the Government were permitted.

Instances.

Thus, on the Treasurer moving, "That the item "chicory stand as printed," viz., at 2d., an Amendment was put and carried, that it stand at 4d. (V. & P., 1870-71, p. 173).

The duty on laths, which was proposed at 6d. per thousand, was increased to 1s. *(ibid.*, p. 183).

An Amendment to include items not proposed in the resolutions, and to strike out articles, from those proposed to be exempted, from the free list, both which Amendments practically increased Taxation, were also permitted *(ibid.*, pp. 179, 184).

Amendment effecting reduction.

The insertion of additional items in the list of articles exempt was perfectly regular, as reducing proposed Taxation *(ibid.*, pp. 188, 189, 190).

Where Amendments are offered to add several items to a proposed free list, an Amendment to strike out certain of such proposed additions is also in order *(ibid.*, p. 188).

Resolutions received on a later day than Report.

The resolutions from the Committee of Ways and Means are ordered to be received on a day subsequent to that on which the Chairman reports to the House that the Committee has come to certain resolutions.

Instances.

Thus, in 1870, the Chairman reported on September 21st, and the House ordered the Report to be considered on the next day; in 1875, the Chairman reported on September 2nd, and the House ordered the Report to be considered September 7th (cf. also V. & P., 1876, pp. 123, 130; 1878, p. 159; 1883-4, p. 139).

Suspension of Standing Orders.

But this rule is relaxed in cases of urgency by suspending the Standing Orders (cf. V. & P., Special Session, 1875, p. 9; 1880, p. 188).

Rule not observed, although no suspension of Standing Orders.

In the Session of 1882, resolutions from the Committee of Ways and Means, imposing a Land and Cheque Tax, and directing the Chairman to move the House for leave to introduce a Bill therefor, were reported and were at once received, and read and agreed to by the House, a Committee being appointed for the Bill without any suspension of the Standing Orders (V. & P., 1882, p. 211; cf. Denison's Decisions, pp. 194-196).

Resolutions read.

On the Order of the Day being read for the consideration of the Report of the Committee of Ways and Means, unless the Order is postponed, the resolutions are read by the Clerk. On the Motion that

the Report be agreed to, it may be disagreed to, amended, or recommitted. Amendments to Question.

Thus, on September 7th, 1875, on the Motion that the Report be agreed to, an Amendment was moved to strike out all the words after "That," with a view to insert in lieu thereof—"In the opinion of this House, "means should be taken to raise an increased revenue "from the Waste Lands of the Crown, in addition to "the legacy and succession duties agreed to in the Com- "mittee of Ways and Means; and that it is not desirable "to carry out the imposition of stamp duties until after "the Question of revenue from the Waste Lands of the "Crown has been considered" (V. & P., 1875, p. 197). Instances.

On September 5th, 1878, an Amendment was moved that a resolution of the nature of a preamble to the resolutions as proposed by the Government, and which had been inserted in Committee, should stand as paragraph 1 of the Report. This was carried in the affirmative; and the Report, although thus amended, was agreed to.

On September 6th, 1883, an Amendment to recommit having been rejected, on the Question that the Report be agreed to, the resolutions, as a complicated Question, were divided and several Amendments offered in the direction of reduction, and carried.

An Amendment of a resolution on the Report can only effect a diminution. House can only reduce on Report.

An Amendment which varies the nature of the resolution of the Committee has been ruled as irregular and not to be entertained (V. & P., 1883-4, p. 148). Tax may not be varied.

If it be desired to increase a charge or duty above that specified in the resolutions, the proper course is to re-commit. And when it is sought to make large reductions, it is more convenient to follow the same practice (cf. V. & P., 1870-71, pp. 194-201). Recommitment to increase.

But it is still competent for the House to amend the resolutions on the Report in a way which would negative or diminish the amount of reduction, provided the duty existing by law is left unchanged or reduced Reduction may be negatived by House, provided existing tax not thereby increased.

by such Amendment (May, Practice of Parliament, p. 685).

Bills.

When the resolutions are agreed to, Bills are ordered to give effect thereto.

Amendments in Committee on Bill.

The Committee on a Bill for reducing taxes may amend the Bill so as to raise a tax beyond the amount proposed therein; in other words, may make any modification of the proposed reduction, provided such modification does not increase the amount beyond the existing tax. Similarly, it may omit from a Bill portions of the resolutions upon which such Bill is founded, even though such omission leaves a duty unchanged, and thus raises it above the amount resolved in the Committee of Ways and Means, and agreed to by the House, on report. These rules must be understood to apply to permanent taxes, which it is proposed to diminish.

Permanent taxes.

New or temporary taxes not to be increased.

A new tax, or a temporary tax continued for the service of the year, cannot be increased by the House, in a Bill, above the amount resolved by the Committee of Ways and Means, and agreed to by the House (cf. May, Practice of Parliament, pp. 685-687).

Resolutions referred to the Committee on Bill.

Resolutions from a subsequent Committee of Ways and Means are ordered to be referred to the Committee on a Bill (cf. V. & P., 1875, pp. 186, 197).

Certain taxes may originate in Committee of Whole.

All annual or temporary duties, and other taxes which are to take effect immediately, for revenue purposes, are properly considered in Ways and Means. But taxes of a more permanent and general nature may, not improperly, originate in Committee of the Whole House (cf. May, Practice of Parliament, p. 693).

Motions have been made in Committee of the Whole—

Instances.

For the removal of the *ad valorem* duties, and the amendment of the Tariff (V. & P., 1860, pp. 28, 29):

For a new Customs Tariff (1863, p. 67):

To repeal Customs Act, and to impose other duties (1865-6, p. 12):

To amend the Customs Laws, and allow drawbacks (*ibid.*, 266, and 1866-7, p. 56):

To impose stamp duties, Customs duties, and licence fees on bonded warehouses (1869-70, pp. 89, 90):

To amend the Tariff by placing articles enumerated on the free list (*ibid.*, pp. 144, 153):

To impose duties upon personal and real property (1879, pp. 226, 227):

To impose a duty of 1s. on each ounce of gold exported from the Northern Territory (1882, p. 198).

Loan Bills originated in Ways and Means.

In addition to the subjects which have been stated as appropriate to the Committee of Ways and Means, it is the practice to found Loan Bills, on resolutions, in the same Committee.

Procedure.

The procedure adopted is for the House to be moved into Committee of Ways and Means to consider a resolution affirming the expediency of authorising the Treasurer "to borrow funds for various public purposes, "by issuing bonds, bearing interest at a rate not exceed-"ing_____per cent. per annum."

Resolution in Committee.

Bill ordered.

If this resolution is agreed to in Committee, and the House agrees to the Report, a Bill is ordered to be introduced to give effect to the resolution.

Variations in practice.

Recommended by Message, and of late years based resolutions Ways and Means.

The practice observed in the introduction of Loan Bills has greatly varied. They have almost invariably been recommended by a Governor's Message: but it is only of late years that recourse has been had to the more correct procedure of resolutions in Committee of Ways and Means, whereon to found such Bills.

Practice up to 1866-7.

Thus, up to and including the Session of 1866-7, the custom was simply to refer the Message to a Committee of two Members, to prepare and bring in a Bill giving effect to the Governor's recommendation (V. & P., 1862, pp. 261, 299, 300; 1863, p. 29; 1865-6, p. 73; 1866-7, pp. 168, 169, 240, 241, 271).

Practice in 1867.

Subsequently the practice was adopted of moving a resolution in Committee of the Whole, affirming the

Committee of the Whole House, and subsequent Message.

desirability of introducing a Bill to authorise the loan; and, on the House agreeing thereto, a Committee was appointed to prepare the Bill. A Governor's Message, recommending the Bill, was received at a later date, and the Bill was then introduced (V. & P., 1867, pp. 239, 245).

Similar practice, 1874.

In the Session of 1874, two Bills were introduced, based upon resolutions in Committee of the Whole, the Governor's Message being received subsequently to the first reading (V. & P., 1874, pp. 33, 38, 307, 314).

A Loan Bill was also introduced and passed, without a preliminary Committee or Governor's recommendation *(ibid.*, p. 165).

> In this case the first Loan Bill was dropped, owing to Amendments made by the Legislative Council; and the Bill just referred to was for the same amount and of the same title as the Bill dropped. It was ruled that the resolution of the House in Committee, upon which one Bill had been introduced, was sufficient, if such Bill were dropped, to found another thereon *(Hansard*, 1874, p. 970; cf. May, Practice of Parliament, p. 538).

Practice, 1875.

Bills originated in Supply.

In the Special Session of 1875, two Messages were received from the Governor, recommending Loan Bills for Public Purposes and Railways respectively. The House went into Committee of Supply to consider the Messages of His Excellency, which were referred to such Committee.

In the Committee, Motion was made that the House be moved for leave to introduce Bills to make provision for the repayment, with interest, of the sums specified in the Messages, for the purposes therein set forth; and a Committee was appointed by the House to prepare Bills to give effect to the resolutions of the Committee of Supply.

The Committee of Ways and Means was not set up, and the Bills were founded upon the resolutions of Supply (V. & P., 1875, Special Session, pp. 6-8).

Practice, 1876.

Bills originated in Ways and Means.

In 1876, on September 29th, a resolution was moved in Committee of Ways and Means to move the House for leave to introduce a Bill to provide funds for Rail-

way purposes. This resolution was simply reported, the House naming October 3rd as the day for considering the Report.

Before receiving the resolution on October 3rd, a Governor's Message was received, recommending a Loan Bill, and specifying the Railways and specific amounts therefor in a Schedule. The resolutions of Ways and Means were thereupon agreed to, and a Committee appointed to prepare the Bill, which was then presented and read a first time (V. & P., 1876, pp. 225, 228).

Message before Report considered.

On October 17th, a second Loan Bill was introduced, on resolutions of the Committee of Ways and Means of that day, the Standing Orders being suspended. Two days subsequently the Governor recommended the Bill, by Message, with a Schedule of the purposes and amount *(ibid.*, pp. 266, 271).

Message subsequent to Report.

The Bill was subsequently dropped; and, on November 14th, the Standing Orders were suspended, and a (third) Loan Bill was introduced, on resolutions of the Committee of Ways and Means *(ibid.*, pp. 325, 326).

Bill introduced on resolutions without Message.

Statement of precedent in above case.

In this case the Bill had been returned by the Legislative Council to the House, with suggestions, which the House informed the Council, by Message, it had resolved not to adopt, and gave reasons. A Motion in the Council, on November 8th, that the suggestions be not insisted on was negatived, and the Chairman left the Chair, on Motion made and Question put and passed (Minutes of Proceedings of Legislative Council, 1876, pp. 127, 128).

On November 15th, the Council ordered the Bill to be further considered in Committee that day three months *(ibid.*, p. 131).

On November 14th, the Treasurer appeared at the Bar of the House with a Bill (Loan Bill, No. 3); but Mr. Speaker ruled that the Bill could not be introduced without notice, and that the House had given no leave to bring in any such Bill that day. To enable the Bill to be brought in, the Standing Orders must be suspended. Mr. Speaker further pointed out that the other Bill was not disposed of, as it was still competent for any Member of the Council to move its further con-

sideration in Committee; and that, in any case, a Governor's message would be required, as the loan, being of a different amount to that in the Bill alleged to have been dropped, had not been recommended. The Bill also differed in title.

On November 15th, Mr. Speaker, in reply to a question whether the second reading of Loan Bill (No. 3) was in order, stated that if the Bill was practically got rid of in another place by a Motion to go into Committee on it that day six months, which might be ascertained by searching the Journals of the Council, the Bill could be proceeded with, and a fresh Message would not be necessary. The Journals were accordingly searched, and the Search Committee reported to the House that the Public Purposes Loan Bill had, on November 15th, been ordered to be considered that day three months. The Loan Bill (No. 3) was thereupon proceeded with, and ultimately passed (*Hansard*, 1876, pp. 2028-2044, 2049, 2050).

Practice, 1878, 1879.

Message before Committee of Ways and Means created.

In each of the Sessions, 1878 and 1879, a Loan Bill was recommended, by Message, with a Schedule of purposes and amounts, and resolutions were subsequently passed in Ways and Means to give effect thereto, and a Bill introduced thereon (V. & P., 1878, pp. 321, 322; 1879, p. 276).

Message for Loan Bill referred to Committee of Supply.

In 1880, a Message recommending a Loan Bill was referred to the Committee of Supply (V. & P., 1880, p. 252). But this was evidently an error, as the resolutions were made in Committee of Ways and Means, and the Bill founded thereon (*ibid.*, p. 268).

Practice, 1881.

Message referred to Committee.

In 1881, the Message preceded the Committee of Ways and Means, and was referred thereto (V. & P., 1881, p. 257).

Practice, 1882.

In 1882, the same procedure was adopted, but no order of reference made (V. & P., 1882, pp. 302, 304).

Message not referred.

Practice, 1883-4.

No Message.

In 1883-4, a Loan Bill was founded upon resolutions in Ways and Means solely, no Message being received (V. &. P., 1883-4, p. 305).

The right of private Members to move Addresses to the Crown for grants of money is recognised by the Standing Orders, which prescribe the mode of procedure.

When "The Estimates" have not been received from the Governor. notice of an Address for a grant of money shall be in the following form—"Mr. _____ "to move on _____ That the House resolve itself "into a Committee of the Whole for the purpose of con- "sidering the Motion—That an Address be presented to "His Excellency the Governor praying His Excellency "to cause a sum not exceeding £_____ to be placed on "the Estimates for the year 18__ for the purpose "of _____."

Notice of application for money.

When "The Estimates" have been received from the Governor, notice shall be in the following form: — "Mr. _____ to move on _____ That the House "resolve itself into a Committee of the Whole for the "purpose of considering the Motion—That an Address "be presented to His Excellency the Governor praying "His Excellency to recommend this House to make pro- "vision in the Estimates for the year 18__ to an extent "not exceeding £_____, for the purpose of _____." —Standing Orders 111, 112.

Notice of application for money.

The subjects of these Addresses were chiefly local wants brought forward by Members in the interests of their constituents. As it was the practice, whenever such Addresses were passed, for Ministers to advise the Governor to reply in compliance with the terms of the Address, the Estimates were loaded with a serious burden. In the three Sessions of 1872, 1873, 1874, no less than 115 such Addresses were passed, those for 1874 alone representing an addition to the Estimates of over £75,000.

Subjects of Addresses.

Addresses complied with.

Instances, 1872, 1873, 1874.

In the Session of 1875, the Leader of the House, in declaring the Policy of the Ministry, which had just succeeded to office, announced that the Government were determined to oppose every Motion for a grant of money by a private Member, and that if such were carried, they would recommend a Message in Reply to the effect that the Address would be submitted to the Executive to be dealt with at the proper time and in the proper manner. Three Addresses were moved in

Change in the action of Ministers in respect of Addresses, 1875.

Addresses moved, and action thereon.

this Session. The first was by the Treasurer, for a purpose announced to the House in the Governor's Speech, and therefore did not come within the category. The other two were of the usual character of such Motions, and by private Members. To the former of these the reply was that, before receiving the Address, provision had already been made on the Estimates. To the latter the Message was as follows :—

"The Governor informs the House of Assembly that "it must at all times be his most earnest desire to attend "to the wishes of the House (and that he will be ready "to give effect to them in this instance), whenever the "state of the public finances, or just claims for other "works, will warrant his recommending the House to "make the provision prayed for" (V. & P., 1875, pp. 54, 81, 82, 92).

Practice of Addresses virtually extinct.

The practice may be said to have thereby received its death blow, and the House has acquiesced in the abandonment of such Motions.

Subsequent Addresses.

Since that date only three Addresses have been moved, two of these, in 1877, for bonuses (V. & P., 1877, pp. 272, 303, 331), and one, in 1882, by the Chief Secretary for a bonus (V. & P., 1882, pp. 272, 295). In each case the Governor has simply acknowleged the receipt of the Address.

Imperial Parliament.

Debate in House of Commons on practice of private Members initiating money votes.

In the House of Commons, in the Session of 1866, a very important and interesting debate took place on this Question of proposals by private Members to make grants of public money. Mr. Ayrton proposed the repeal of the Standing Order of June 25th, 1852, relating to applications for public money, and the Standing Order, of the same date, relating to public aids or charge upon the people. It was laid down, as a fundamental principle of the Constitution, that the House should never take the initiative in granting or voting away public money, or in increasing the national burdens, but should leave the proposal of such measures to the Crown, the duty of the House being to reduce not to increase. An opinion of Sir Robert Peel was quoted, to the effect that a Constitution framed in imitation of England's could not possibly be carried out unless the House of Representatives were prevented

from taking the initiative in making grants of public money or imposing taxes upon the people. Mr. Gladstone, in supporting the principle enunciated by the mover, stated that, in the great cases of legislation in the House for Colonial Constitutions, care had been taken to provide against this usurpation of the responsibilities and functions of the Executive, which, in Canada, before the present Constitution, had been frequent and glaring. While it would still be open to Address the Crown, the responsibility of accepting or rejecting the Address would be thrown on the Crown. It was urged also, as an inconvenience attaching to Addresses to the Crown, that they were carried upon one Motion only; whereas it was eminently desirable that an Address involving a grant of money as its consequence should be reported from the Committee of the Whole House to the House itself, and the consideration of the Report be postponed to a subsequent day, or some other formal stage of that character be interposed, so as to enable the House to apply a check. The answers to such Addresses should be given by the Minister of the Crown on his responsibility. The resolutions moved by Mr. Ayrton were adopted, and ordered to be Standing Orders of the House. They read as follows:—

New Standing Orders.

"That this House will receive no Petition for any "sum relating to Public Service, or proceed upon any "Motion for a grant or charge upon the Public Revenue, "whether payable out of the Consolidated Fund or out "of moneys to be provided by Parliament, unless re-"commended from the Crown."

"That if any Motion be made in the House for any "aid, grant, or charge upon the Public Revenue, "whether payable out of the Consolidated Fund or out "of moneys to be provided by Parliament, or for any "charge upon the people, the consideration and debate "thereof shall not be presently entered upon, but shall "be adjourned till such further day as the House shall "think fit to appoint; and then it shall be referred to a "Committee of the Whole House before any resolution "or vote of the House do pass thereon" *(Hansard*, third series, vol. 182, pp. 591-603).

PUBLIC BILLS.

Bills—Definition

A Bill is a document containing certain propositions, submitted to Parliament for its consideration and approval, with a view to its becoming the law of the land.

A Bill is, so to speak, the draft of a Statute.

Act of Parliament defined.

When a Bill has passed both Houses, and received the Royal assent, it becomes, and is thenceforward called, an Act of Parliament.

Public and Private Bills.

Bills are divided into the two classes of Public and Private Bills.

Public Bill defined.

A Public Bill relates to matters of public policy, and is introduced directly by a Member, who is said to be in charge of the Bill.

Public Bill, how founded.

A Private Bill is founded upon the petition of the parties interested.

Certain Bills deemed public.

Standing Order 270 ordains that every Bill for the paving, lighting, draining, cleansing, or otherwise improving any city, town, or district, or for supplying the same with water, promoted by the municipal or district authorities of such city, town, or district, shall be deemed and taken to be a Public Bill.

Initiation of Public Bills.

Public Bills come before the House in various ways. They may be—

(1) Transmitted by the Governor, by Message:

(2) Initiated in the House:

(3) Sent from the Legislative Council.

Bills transmitted by Governor direct, or in compliance with Address.

(1) Bills may be transmitted by the Governor direct, or in reply to an Address of the House praying therefor. This practice has entirely fallen into abeyance; but in the earlier history of the House several precedents occur, to which it may be of interest to call

Practice discontinued.

attention, as the Standing Orders still contemplate the practice.

Thus—

Instances of Bills transmitted by Governor.

Bills were transmitted by the Governor—November 12th, 1857 (direct); September 22nd and October 19th, 1858 (direct); July 19th (on Address) and August 17th, 1859 (direct); May 30th (direct), June 19th (direct), June 22nd (direct), August 8th (on Address), August 23rd and 28th (direct), September 11th, 12th, 26th (direct), and October 11th, 1860 (direct).

In 1861, sixteen Bills were transmitted direct, and four on Address.

On May 1st, 1862, five Bills, and, on May 14th, one, were transmitted direct.

On May 30th, the Speaker laid on the Table a Paper relative to the Initiation of Bills, which was ordered to be printed, and is here quoted.

Opinion of Speaker of House of Assembly in respect to the Initiation of Bills.

Opinion of Mr. Speaker Hawker on introduction of Bills, Session 1862.

"Before proceeding with the Business of the Day I wish to answer, at greater length than I was able to at the moment, a question put to me last evening by members of the Ministry, with regard to the conduct of Business in this House connected with the introduction of Bills.

"It would be beyond my province to attempt to settle the legal question as to whether the former portion of clause 30 of the English Act, No. 76 of 1842 (empowering the Governor to transmit to the Council, for consideration, the drafts of any laws), is still in force. It has been conspicuously omitted from the Constitution Act establishing the present Parliament, although the latter part of the clause has been re-enacted* therein, and this circumstance has caused serious doubts on both sides.

* See Constitution Act of 1855-6, clause 28.

"How far it is desirable for the Ministry to advise the Governor to exercise this power, if it still remains, is a matter to which I am unable to allude,* as a Motion on the Notice Paper will shortly bring that point on for discussion.

"With respect to the two other principal points—

"First, with regard to raising moneys, I am of opinion that, even if the Governor still has the power of transmitting Bills, this House would be departing from the practice† of Parliament, and sacrificing one of the chief privileges of Representative Assemblies, if it passed any Bills, imposing new or increasing existing taxes, or affecting trade and commerce, without previously affirming their desirability by resolutions in Committee. Unless the House decides otherwise, I shall feel it my duty, on all such occasions, to take the same course as with the recent Bill to Regulate the Sale of South Australian Wines, and advise the House to discharge it.

"Secondly, with regard to appropriation, the fortieth clause of the Constitution Act distinctly requires that the Governor shall recommend the purpose of any appropriation of the Revenue before the House can pass any resolution or Bill for such appropriation. The first clause also provides that money Bills shall originate in the House of Assembly. After reading these two clauses together, and looking into the practice of both New South Wales‡ and Victoria,§ whose Parliaments are established by Constitutions‖ having provisions very similar in this respect to our own, I am of opinion, as I have stated on two former occasions, that the Governor should merely recommend the specific

* See May, edition of 1855, page 277.

† See May, edition of 1855, pages 364, 366, 367.

‡ See Sydney Assembly Votes of March 28th and May 7th, 1861, and various other instances.

§ See Melbourne Assembly Votes of January 18th and 29th, and May 30th, 1861, and various other places.

‖ See Imperial Act, 54 of 18 and 19 Vic., clauses 1 and 54 of Schedule. Also, Act 55, clauses 56 and 57 of Schedule.

purpose, leaving it to the House to incorporate it amongst the other provisions of the Bill; thus both clauses of our Constitution Act would be complied with. Such is the case with the Estimates and the Appropriation Bill—the former are recommended by the Governor, the latter originates in the Assembly.

"This is my opinion, after careful consideration: and, until the House rules otherwise, I shall feel bound to repeat it as often as necessity arises. At the same time, as has been before stated, the Speaker's decision is not final. Should the Ministry, or any individual Member, on legal grounds or as a matter of prerogative, think it right to question the above opinion, or obtain fuller discussion on it, my advice would be to take the sense of the House on some such Motion as the following:—

> "That, in the opinion of this House, the first and "fortieth clauses of the Constitution Act of "1855-6 are sufficiently complied with when "the Governor transmits, for the consideration "of the Assembly, a Bill containing clauses "appropriating the Revenue, instead of spe- "cially recommending the purpose of such "appropriation."

"Should such a Motion be either passed or negatived, it would satisfactorily settle the matter, and avoid further waste of time; and should it be carried, it would be my duty to facilitate the further consideration of the Trial by Jury Bill, which has not been formally discharged by the House, but was dropped by the Speaker's decision yesterday.

"I have only to add that, whilst it is specially my duty as Speaker to maintain the privileges of the House, and to prevent errors in the passing of Bills, I am as much interested as any other Member in the expeditious conduct of business. In this spirit I have examined the remaining Bills before the House, and consider that, as far as technical matters are involved, six may be proceeded with without delay, but that the

23rd clause of the Regulation of Cemeteries Bill may render it liable to rejection."

(Signed) GEORGE C. HAWKER, Speaker.

The Speaker's Office, May 30th, 1862.

Resolution of House against initiation of Bills by Governor.

On June 4th, the House affirmed the following resolution—"That the initiation of a Bill by Message "from the Governor deprives the House of the opportunity of discussing its principles prior to its being "read a first time; and that in the opinion of this "House it is not desirable for the Ministry to advise "the Governor to transmit Bills except in cases contemplated by the Constitution Act of 1855-6" (V. and P., 1862, p. 56).

How initiated.

It is provided by Standing Order 269 that—"Every "Public Bill (unless transmitted by the Governor by "Message, or sent from Legislative Council) shall be "initiated either by a motion for leave to bring in "the Bill, specifying its intended title, or by a Motion "for a Committee of not less than two Members, to "prepare and bring it in, or by an Order of the House."

The initial proceedings of certain Bills must be taken in Committee of the Whole House.

Bills affecting trade.

Standing Order 271 enacts—No Bill relating to trade, or the alteration of the laws concerning trade, shall be brought into the House until the proposition shall have been first considered in a Committee of the Whole House, and agreed to by the House.

Bills introduced in House direct.

Procedure.

If a Bill be of such a character that a preliminary Committee is not necessary, the Member seeking to introduce such a measure moves—"That he have "leave to introduce a Bill for an Act to," &c. (here follows the title); and the House grants leave accordingly.

Bills founded upon resolutions in Committee.

Procedure.

If it is necessary to found the Bill upon a resolution in Committee, Motion is made—"That the House "resolve itself into a Committee of the Whole for the "purpose of considering," *ex. gr.*, certain matters or resolutions on which it is intended to move in the House for leave to introduce a Bill.

Sometimes the resolution proposed to be considered in Committee is the simple one—"That it is desirable "to introduce a Bill," &c.

The procedure in Committee is frequently of the most formal character and limited to moving a resolution—"That the Chairman be directed to move the "House that leave be given to introduce a Bill for an "Act," &c., &c.

But whether the matters referred to the Committee are considered and thoroughly debated, and resolutions agreed to separate and distinct from the Question of Legislation thereon or not, it is the more usual and regular course for the Committee to direct the Chairman in reporting the resolutions to the House, to move the House for leave to bring in a Bill to give effect thereto.

Chairman moves for leave to introduce Bill.

When the Chairman reports to the House, Motion is made that the resolution be now received.

It is then read by the Clerk at the Table, and the Chairman moves that it be agreed to.

Resolution read.

On Motion, which should be made by the Chairman as still representing the Committee, the House appoints two Members as a Committee to prepare and bring in the Bill.

Committee for Bill.

So soon as the House has given leave for the introduction of a Bill, whether by a single Member or by a Committee, in the case of Bills requiring a preliminary Committee, the Bill may be at once brought in by such Member, or by one of the Committee appointed.

Bill may be presented immediately on leave.

The Member proceeds from his place to the Bar and addresses Mr. Speaker in the words—"A Bill, Sir." He is ordered by the Speaker to "bring it up."

Procedure.

He then brings it to the Table of the House and delivers it to the Clerk, who reads the title, when the Bill is said to have been received by the House.

Clerk reads title.

Mr. Speaker puts a Question—"That this Bill be "now read a first time," which is decided without Amendment or debate (cf. Standing Order 278).

First reading.

If negatived, the same Question may be moved, on Notice, on a subsequent day.

Ordered to be printed and read a second time.

If affirmed, a Question is at once put—"That this "Bill be printed, and the second reading made an "Order of the Day for" (some future day).

Introduction of Bills at later date than leave.

If the Bill be not ready for presentation, immediately upon leave being given, it may be introduced at any time during a Sitting, but so as not to interrupt other business.

Indorsement on Bill.

When a Bill is read a first time, the date of its presentation, and first reading, and the Order of the House as to its printing, is indorsed above its title by the Clerk-Assistant at the Table.

Bill must agree with leave.

A Bill must be prepared in exact accordance with the order of leave, and the title must correspond therewith.

The following Standing Orders apply—

Fair copy to be presented.

272. The Member having leave, or the Committee appointed to bring in a Bill, shall prepare a draft of such Bill, with the necessary blanks to be filled up in Committee of the Whole House, and shall present a fair copy thereof to the House at an early day.

Clauses to come within the title.

273. No clause shall be inserted in any such draft foreign to the title of the Bill, and if any such clause be afterwards introduced, the title shall be altered accordingly.

If irregular, to be withdrawn.

274. Every Bill not prepared pursuant to the order of leave, or according to the Rules and Orders of the House, shall be ordered to be withdrawn.

To be presented by Member.

275. A Bill shall be presented by the Member having leave to bring it in, or one of the Members ordered to prepare the same, unless received by Message.

No alteration, except clerical, after first reading.

After a Bill has been read a first time, none but clerical alterations can be made before the second reading. The Bill is no longer the property of the Member introducing it, but has become the property of the House.

Bills presented in manuscript.

A Bill may be presented in manuscript. In this case it is usual to submit proof thereof to the Member introducing it, for verification before distributing copies amongst Members and placing on the files. But the more convenient practice is for a private Member who

Practice in respect of printing.

is intending to introduce a Bill to forward the manuscript to the Clerk's office with a request that he will cause it to be printed prior to its presentation. Government Bills are, as a matter of course, laid on in print.

Bills not relating to trade founded on resolutions in Committee.

There is nothing to prevent Bills, other than those relating to trade, being founded upon resolutions in Committee of the Whole. Where the fullest deliberation and discussion has been deemed desirable, the practice of initiating Bills on resolutions in Committee has been freely adopted.

Thus, Bills—

Instances.

For Divorce and Matrimonial Causes (V. & P., 1867, p. 16):

For Railway Construction (*ibid.*, p. 173):

For the Amendment of the Waste Lands System (V. & P., 1868, p. 143):

For the Leasing of Land for Gold (V. & P., 1870-71, p. 368):

For the Preservation of the Public Health (V. & P., 1873, p. 46):

For the Incorporation and Endowment of the Adelaide University (V. & P., 1874, p. 354):

For the Consolidation of the Laws relating to the Crown Lands (V. & P., 1876, p. 186):

To Regulate Chinese Immigration (V. & P., 1881, p. 16):

To Consolidate and Amend the Education Act (V. & P., 1883-4, p. 20):

have all been initiated in Committees of the Whole House.

Recent practice dispenses with Committee in ordinary cases.

But, of late years, the tendency has been to introduce far more Bills directly in the House than on resolutions in Committee, and notably in the case of Bills dealing with the Waste Lands of the Crown.

Bills, which in the earlier history of the House would undoubtedly have been initiated in Committee, and which are of the same character as Bills which have been so founded, are now very generally introduced in the House direct.

Instances.

Thus, *ex. gr.*—

The Contractors' Debts Bill, and the Marine Board Act Amendment Bill (1879):

The Insolvency Bill (1880):

Manufacturing Districts Bill (1881):

Food and Drugs Bill (1882):

Employers' Liability Bill (1883-4):

were all initiated in the House; whereas, under the former practice, they would have been founded upon resolutions in Committee of the Whole.

Standing Orders.

The following are the Standing Orders referring to the second reading of a Bill:—

Question for second reading.

280. On the Order of the Day being read for the second reading of a Bill, the Question shall be put—"That this Bill be now read a second time."

Amendments to such Question.

281. Amendments may be moved to such Question, by leaving out "now," and adding "this day three "months," "six months," or any other time; or the Question may be negatived, or the Previous Question moved.

Amendments to be relevant.

282. No other Amendment may be moved to such Question, unless the same be strictly relevant to the Bill.

Motion for second reading.

When the Order of the Day is read by the Clerk, the Member in charge moves "That the Bill be now "read a second time"; and this is the opportunity almost invariably taken for the debate in chief on the Bill.

Seconder to Order not necessary.

> It is laid down by May that, as the House has already ordered that the Bill be read a second time, and the second reading stands as an Order of the Day, the Motion for now reading the Bill a second time need not be seconded (Practice of Parliament, p. 545).

Absence of Member in charge of Bill.

If the Member in charge of the Bill is absent, it is irregular for another Member to interpose, and move the discharge of the Order of the Day. In such a case it usually happens that some other Member has been requested to postpone the Order to a future day; and, failing that, the Leader of the House usually intervenes to prevent the Order disappearing (cf. Deni-

son's Decisions, p. 30; Brand's Decisions, 1872-1880, pp. 23-25):

Question negatived.

The Question "That the Bill be now read a second "time" may be simply negatived.

Decision not final.

This course, however, does not settle the fate of the Bill, as it still remains to be decided on what other day the Bill shall be read, or whether it shall be read at all.

Question revived

Notice of Motion may be given for the second reading on a subsequent day (cf. Denison's Decisions, p. 29).

Usual Amendments to Question for second reading.

It is, therefore, usual for the opponents of the Bill to move an Amendment to the Question, by leaving out the word "now" and adding "three months" or "six months," or any other term beyond the probable duration of the Session. If carried, such a decision is held to be final, and the Bill disappears from the Notice Paper (cf. Denison's Decisions, p. 29).

Previous Question.

The Previous Question, though it may be moved on the second reading and other stages of a Bill, is open to the same objections as the mere negativing the Question for *now* reading a second time.

Motion and Amendment, and Question for reading, negatived.

If the House negative the Motion, to which an Amendment has been proposed, that a Bill be now read a second time, and also negative the amending proposition to add to the Question, from which the word "now" has been struck out, the words "this "day six months," as well as the Question "That the "Bill be read a second time," the only method to restore the Bill is by rescinding the vote negativing the second reading. Fresh notice may then be given of a Motion, "That the Bill be now read a second "time" (Dry Creek and Port Adelaide Railway Bill, 1864; V. & P., 1864, p. 248, 256).

Procedure to revive Bill.

Motion for "now" reading, and Amendment "this day six months," negatived.

It may happen that the House negatives the Question for the second reading of a Bill "now," by resolving that the word proposed to be struck out ("now," *scil.*) shall not stand part of the Question, and also declines to add the words, "this day six

Another day named, and new Question constituted thereby.

"months." It is then competent to move the addition of another day for the second reading. If this be resolved in the affirmative, the second reading stands as an Order of that Day, and becomes an entirely new Question (cf. V. & P., 1883-4, pp. 50, 59; Pastoral Leases Bill, Speaker's ruling).

Previous Question, how entered diversely in Journals.

It may be of interest to note two different ways of recording in the Journals the procedure in the case of the Previous Question being moved as an Amendment on the second reading of a Bill.

Thus, in the Session of 1871, on the Question of the second reading of the Precedency Bill, the entry reads—

"Previous Question—Shall this Question be now "put?—put and negatived.

"Question—That the Bill be now read a second time "—put and passed.

"Bill read a second time" (V. & P., 1871, pp. 185, 186).

Whereas, in 1878, the same Amendment on the second reading of the Education Bill is recorded in the directly opposite way, the entry being—

"Previous Question—Shall this Question be now "put?

"House divided—Ayes, 22: Noes, 10.

"And so the Question passed in the affirmative.

"Question—That the Education Bill be now read "a second time—put and passed" (V. & P., 1878, p. 63).

In each case the Previous Question was negatived, by affirming the Question as put. This may illustrate the confusion so often experienced in the case of the Amendment known as the Previous Question.

Amendments, viz., resolutions.

The Question of the second reading is further open to Amendments in the form of resolutions.

Resolutions may be moved at any stage.

"It is also competent to a Member who desires to "place on record any special reasons for not agreeing to "the second reading or other subsequent stage of a Bill "to move, as an Amendment to the Question, a resolu- "tion declaratory of some principle adverse to, or "differing from, the principles, policy, or provisions of "the Bill; or expressing opinions as to any circum- "stances connected with its introduction or prosecution, "or otherwise opposed to its progress; or seeking "further information in relation to the Bill by Com-

"mittees, Commissioners, production of papers, or other "evidence" (May, Practice of Parliament, pp. 546, 547).

Relevancy of Amendments.

But, as by Standing Order 282, the Amendment must be strictly relevant to the Bill.

The following instances may be cited:—

Instances of Amendments of the nature of resolutions.

On the Motion that the Dry Creek and Port Adelaide Railway Bill be read a second time, an Amendment was moved to strike out all the words after "That," with a view to insert the following—"the railway traffic "between the City, Kapunda, and the Port will be "carried on with greater economy and safety by "forming a branch line between the North Adelaide "and Bowden Stations, and laying a second line of "rails to the Port, in place of constructing a branch "line from the Dry Creek to the Port" (V. & P., 1864, p. 293).

On the Waste Lands Act Amendment Bill, second reading, an Amendment was moved to strike out all the words after "That," and insert, "it is not expedient "to pass any measure for granting an extension of "tenure to the Pastoral Lessees, until a Select Com- "mittee of this House shall have been appointed to "inquire and report on the subject" (V. & P., 1865-6, pp. 175, 176).

On the second reading of the Dry Creek Railway Bill an Amendment was moved, *ut supra*, to insert— "A Select Committee be appointed to inquire into and "report upon the schemes of railway extension pro- "posed by the Government" (V. & P., 1866-7, pp. 176, 177; cf. also *ibid.*, Constitution Act Amendment Bill, p. 88; Port Adelaide Improvement Bill, p. 207).

On the Kapunda and North-West Bend Railway Bill an Amendment was moved to strike out, &c., *ut supra*, and insert—"This Bill be not proceeded with "until the Report of the Harbor Engineer on the "Murray Mouth, ordered by this House, has been laid "on the table" (V. & P., 1876, p. 38; cf. also Real

Property Bill, V. & P., 1878, p. 55; Education Bill, *ibid.*, pp. 62, 63).

On the Property Tax Bill an Amendment was moved to strike out, &c., and insert—"It is desirable to meet "any deficiency in the Revenue by the sale of Crown "lands, by public auction, for cash during the present "financial year to an extent not exceeding £200,000" (V. & P., 1883-4, p. 152).

On the Land and Income Tax Bill an Amendment was moved, *ut supra*, to insert—"It is inexpedient to "determine the issues raised by this Bill until after the "next general election" (*ibid.*, p. 224).

Effect of resolution if carried as an Amendment.

A resolution, if agreed to, does not dispose of the Bill, it merely supersedes the Question for *now* reading the Bill a second time. The second reading may be moved on another occasion (cf. Brand's Decisions, 1872-1880, p. 26).

General resolution relative to Railway Bills.

On August 9th, 1882, the House passed a resolution that, before the second reading of any Railway Bill, introduced by the Government, there be laid upon the Table of the House a return showing full details of the probable revenue and expenditure, the area, present and expected increased produce of the country served by such railway.

Committal.

Standing Order 283 provides that, after the second reading, unless it be moved—"That this Bill be referred "to a Select Committee," the Speaker shall put the Question—"That the Speaker do now leave the Chair, "and the House resolve itself into a Committee of the "Whole for the consideration of this Bill."

Reference to Select Committee, a direct Motion, not Amendment to Committee Motion.

If it be desired to refer the Bill to a Select Committee, a direct Motion to that effect, not as an Amendment to the Committee Motion, is made immediately after the Bill has been read a second time (cf. Civil Service Bill, 1874, V. & P., 1874, p. 75; Real Property Bill, *ibid.*, p. 181; Wallaroo Railway Bill, V. & P., 1877, p. 283; Electoral Bill (No. 2), V. & P., 1879, pp. 156-7; Fire Brigades Bill, V. & P., 1882, p. 145).

When a Bill has been referred to a Select Committee and reported on after the second reading, Notice is given for the committal of the Bill, and when it is moved, the Speaker puts the Question—"That the "Speaker do now leave the Chair and the House resolve "itself into a Committee of the Whole for the con- "sideration of this Bill."

Committal after Select Committee has reported.

The procedure is identical when, as most commonly, there is no Motion to refer the Bill to a Select Committee on the second reading.

Standing Order 285 provides—

Amendments may be moved to the Question for the Speaker to leave the Chair, by leaving out all the words after "That," in order to add the words— "this House will, on this day three months (or six "months, or other time), resolve itself into Committee "on this Bill."

Amendments to Question for going into Committee.

"If attention were not paid to this form of "Amendment, the absurdity might arise of ordering "Mr. Speaker 'to leave the Chair this day six months.' "It is not competent to move any Amendment by way "of addition to the Question, that Mr. Speaker do now "leave the Chair" (May, Practice of Parliament, p. 552).

On June 25th, 1863, on the Motion to go into Committee on the Port Adelaide Waterworks Bill, an Amendment was moved and carried, to strike out all the words after "That," and insert "the Bill be "referred to a Select Committee." The Standing Orders are silent as to such an Amendment, but it is not contrary to the practice of Parliament.

Amendments to Committee Motion of the nature of resolutions.

Instances.

Again, on October 9th, 1879, on the Motion to go into Committee on the Electoral Bill, an Amendment was proposed in the usual way and carried, that it "was not expedient to alter the present Electoral Dis- "tricts." Immediately thereafter Motion was made and affirmed—"That the Speaker do forthwith leave "the Chair, and the House resolve itself into a Com- "mittee of the Whole for the consideration of the

"Electoral Bill"—a procedure similar to that in Supply.

Instructions to Committee on a Bill.

Before the House goes into Committee, an instruction may be given to the Committee, after the Order of the Day for going into Committee has been read. It is proposed, as a distinct Motion and not as an Amendment to the Question—"That the Speaker do now "leave the Chair" (cf. Standing Orders 286, 406).

The subject of instructions to Committees will be dealt with in a separate chapter.

Procedure in Committee on Bills.

The procedure in Committee on a Bill is as follows :—

The Chairman, who has before him a large paper copy of the Bill, with ample margins to note Amendments made, puts a Question—

Preamble postponed.

"That the Preamble be postponed."

Question regarded as formal.

This Question is regarded as purely formal, and is agreed to as a matter of course.

May be negatived.

This Question may be negatived, for although the Standing Orders would seem to contemplate its being affirmed invariably, there is nothing therein to prevent its being negatived. In the House of Commons, under the recent Standing Order of November 27th, 1882, the preamble stands postponed until after the consideration of the clauses, without Question put.

Imperial practice.

Clauses, how put.

The Chairman then reads each clause separately, beginning with the first enacting clause, and puts a Question on each clause—"That the clause stand as "printed."

Only number and marginal note of clause read.

By reading, it must be understood that the Chairman only reads the number and marginal notes. In the case of Bills of great length, containing several stock clauses, as they are termed, and even in other cases, a practice has arisen of the Chairman reading the clauses by their numbers only, and putting a Question upon a group of clauses instead of upon each individual clause, *ex. gr.*, "That clauses 12 to 24 stand as printed." The Chairman is careful to pause between the numbers, so that, if any clause is sought to be amended, that clause can be dealt with, by itself, in the regular way.

Clauses sometimes put in groups.

Amendments.

If an Amendment is offered, the Chairman, who is provided, by the Member moving, with a written copy

of the Amendment, states the line in the clause in which the alteration is to be made, and puts the Question in the ordinary form.

Whenever several Amendments are about to be proposed in the same clause, the Chairman takes care to ascertain exactly where they are intended to come in, and proposes them in such a way as not to exclude any Amendment. For if a later line or words in the same clause have been amended, Amendments cannot be made in an earlier part of the clause. Even if an Amendment has been proposed only, such Amendment must be, by leave, withdrawn to enable an earlier Amendment to be proposed (cf. Standing Orders, cap. XIV.; Amendments, Standing Order 192). Several Amendments proposed—Practice in respect of, and limitation.

If an Amendment has been made at the beginning of a clause, it is competent to leave out the remainder of the clause.

But it is not in order to propose to leave out from the word "That" to the end of the clause in order to substitute other words. This would, in fact, be a new clause. In such a case the regular course would be to negative the existing clause, and bring up a new one at the proper time (cf. May, Practice of Parliament, pp. 561, 562). An Amendment, practically a new clause, not permitted.

If a clause is amended, the Question must be put—"That the clause stand as amended." Question on amended clause.

The Standing Orders prescribe the nature and extent of Amendments in Committee on a Bill.

Any Amendment may be made to a clause, provided the same be relevant to the subject-matter of the Bill, or pursuant to any instruction, and be otherwise in conformity with the rules and orders of the House; but if any Amendment shall not be within the title of the Bill, the Committee shall extend the title accordingly, and report the same specially to the House.—Standing Order 289. Amendments to clauses, &c.

Any clause may be postponed, unless it has been considered and amended. Postponement of clause.

When the clauses have been put to the Committee, Schedules.

Postponed clauses and schedules, when considered.

the schedules are then taken, and these may, similarly as clauses, be passed or postponed. The postponed clauses and schedules, if any, are now considered and disposed of.

New clauses.

The new clauses, proposed to be added to the Bill, are then taken in the order in which they will stand, and are inserted or negatived.

Preamble.

The preamble is next considered, and is open to Amendment, if necessary, a Question being put—"That this be the "Preamble of the Bill."

Title.

The Chairman then reads the title, and if it be necessary, owing to Amendments made not coming within the original title, the title is amended, and a Question put—"That this be the title of the Bill."

Rules as to Amendments admissible.

The following principles are laid down by May as to what Amendments are admissible—

"An Amendment or new clause cannot be brought up "if substantially the same as one already negatived by "the Committee."

"An Amendment must be coherent and consistent "with the context of the Bill."

"A new clause will not be entertained if inconsistent "with other clauses already agreed to by the Committee, "or if substantially the same as another clause previously "negatived."

"If a clause or Amendment irrelevant to the subject-"matter of the Bill be offered, the Chairman will decline "to put the Question" (Practice of Parliament, p. 565).

On September 25th, 1883, in Committee on the Property Tax Bill, the Chairman refused to entertain a proposed new clause, as being substantially the same as one already struck out of the Bill (V. & P., 1883-4, p. 168).

Bill committed *pro forma*, to allow of considerable Amendments.

It may happen that, with a view to meet suggestions made by Members, or to otherwise improve a Bill, the Member in charge thereof resolves to introduce numerous Amendments. In such a case the Bill is committed *pro formâ*, the Amendments are made without discussion, the Bill as so amended is reported in order that a clean print may be obtained, and the Bill is afterwards recommitted and considered like any other Bill committed for the first time.

Bill recommitted when so amended.

Instance of a Bill committed *pro forma*, and

On June 24th, 1879, the Attorney-General introduced "A Bill for an Act to constitute District Courts."

The provisions met with great opposition during the debate on the second reading, which was only carried on the understanding that the Bill would be greatly altered in Committee to meet the views of Members. In Committee the Attorney-General asked leave to introduce his Amendments *pro formâ*, with a view to a reprint of the Bill, as so amended, and a recommittal, and accordingly the Amendments were inserted and formally agreed to, and the Bill reported.

extensive Amendments made, and Bill recommitted (District Courts Bill, 1879).

The Bill was recommitted on Consideration.

When the Bill came on for its third reading, the attention of Mr. Speaker was called to the radical alterations made in Committee, whereby its whole scope and leading features were altered, and a new title substituted in accordance with its present provisions, and Mr. Speaker's opinion was asked thereon, the Order of the Day being postponed to allow Mr. Speaker time to consider the Question before giving a formal opinion. On a subsequent day Mr. Speaker delivered the following ruling:—

Ruling of Mr. Speaker thereon.

"In order to form a correct opinion on the Question "whether 'the Bill for an Act to extend the Jurisdic-"'tion of certain Local Courts,' as reported, has been "introduced and carried through its various stages in "accordance with the practice of Parliament and the "Standing Orders of the House, I have thought it "necessary to study carefully the practice of the House "of Commons in analogous cases, as laid down in May's "Treatise on the Law, Privileges, Proceedings, and "Usages of Parliament.

"At page 485 of that work it is stated as follows:— "'It frequently happens that, before the second reading "'of a Bill, it becomes necessary to make considerable "'changes in its provisions, which can only be accom-"'plished at this stage by discharging the order for "'the second reading and withdrawing the Bill. The "'ordinary practice has been to order a Bill to be "'withdrawn, and to give leave to bring in another "'Bill. And this course is always necessary if there

" ' be any change of title; but when the Bill is with-
" ' drawn for the purpose of making numerous Amend-
" ' ments, without any change of title, a simpler form
" ' of proceeding has been occasionally adopted. So
" ' soon as the first Bill has been withdrawn, the
" ' order for leave for bringing in the Bill is read, and
" ' leave is given to present another Bill instead thereof,
" ' upon the same order of leave. This was done in
" ' 1814, and the practice has since been revived with
" ' much convenience.'

" On this statement of procedure I have to observe " that, assuming it had been the intention of the " Attorney-General to make considerable alterations, " and to withdraw the Bill at any time prior to the " second reading, and that he was then of opinion that " the alterations he proposed making necessitated an " alteration of the title, it could not have been brought " in on the leave given on the 24th June, as any Bill " brought in on that leave must have been intituled " ' A Bill for an Act to constitute District Courts,' and " fresh Notice must have been given, asking leave to " bring in a Bill for an Act giving the precise title of " the proposed Bill.

" May (pages 508-9) thus describes another form of " proceedings under the heading ' Bills committed *pro* " '*formâ*' : ' When the Lord or Minister in charge of " ' a Bill desires to introduce numerous Amendments " ' in order to meet the views of other Members, or " ' otherwise to improve the measure and render it " ' more generally acceptable to the House, he may " ' express his desire that the Bill shall be committed " ' *pro formâ*, a course which is rarely objected to. In " ' such cases the proposed Amendments are not " ' separately considered, nor is any Question put upon " ' the several clauses of the Bill. The proceedings " ' being entirely formal, all discussion is avoided, and " ' the Chairman reports the Bill with the Amendments " ' to the House, and it is reprinted in its amended form. " ' When a Bill has been committed *pro formâ*, it is

" ' not regular to introduce, without full explanation,
" ' Amendments of so extensive a character as virtually
" ' to constitute it a different Bill from that which has
" ' been read a second time and committed. In 1836
" ' the Partnership Amendment Bill having been com-
" ' mitted *pro formâ*, it was extensively amended, but
" ' no Amendment was inserted which it was not clearly
" ' competent for the Committee to entertain. Yet,
" ' when an objection was urged that it had become a
" ' new Bill, the Minister in charge of it, while denying
" ' the extent of the Amendments, consented to with-
" ' draw the Bill. When the Amendments affect the
" ' preamble of the Bill, the more regular and con-
" ' venient course is to withdraw the Bill, and present
" ' another.'

" Having thus ascertained the practice of the Impe-
" rial Parliament, as laid down by May, it is necessary
" to examine our own Standing Orders regulating the
" manner of dealing with Bills when passing through
" Committee, in order to see whether they are so worded
" as to necessitate or authorise any departure from the
" practice of the House of Commons. Our Standing
" Order No. 289, headed 'Amendments to clauses,' is
" as follows:—'Any Amendment may be made to a
" ' clause, provided the same be relevant to the subject-
" ' matter of the Bill, or pursuant to any instruction,
" ' or otherwise in conformity with the Rules and
" ' Orders of the House; but if any Amendment shall
" ' not be within the title of the Bill, the Committee
" ' shall extend the title accordingly, and report the
" ' same specially to the House.' This Standing Order,
" with the exception of the expression 'extend the title,'
" is word for word the same as the Standing Order of
" the House of Commons, No. 362, when it reads,
" ' amend the title.' This verbal difference is not, in
" my opinion, of much importance, and would not
" justify any departure from the practice of the Impe-
" rial Parliament.

" The quotation from May (pages 508-9) shows that

" important and extensive alterations may be made in " a Bill when considered *pro formâ* in Committee; " but it must be borne in mind that such consideration " is literally most formal, there being no discussion " whatever on the title, preamble, or clauses of the " Bill. The Member in charge places in the hands of the " Chairman a copy of the Bill, with the proposed " Amendments, who then puts the Question that Bill " and Amendments be agreed to, which Question being " agreed to without discussion, the Bill, as amended, is " then ordered to be reported, and no change of title is " allowed in this *pro formâ* consideration in Committee.

" On reference to the proceedings on the Bill to con- " stitute District Courts, I find that it was considered " and discussed in Committee on the 22nd August, 5th " and 12th of September, when nineteen clauses of the " original Bill were agreed to, sixty-one amended, and " five struck out, the preamble amended, and the title " altered from 'An Act to constitute District Courts,' " to 'An Act to extend the Jurisdiction of certain " 'Local Courts,' a course which would have been in- " consistent with the *pro formâ* consideration of the " Bill, and therefore the objection that the title of the " Bill was amended on a *pro formâ* consideration is " done away with.

" It appears to me that the proper time to have " raised this Question was on the 28th August, when " the Order of the Day was read for the consideration " of the Report of the Committee, and before the Bill " was recommitted. The Bill might then have been " withdrawn, and leave granted on Motion with Notice " to bring in a Bill with the amended title, which Bill " could then have been carried through its various " stages in strict conformity with Parliamentary usage. " The jealousy of the English Parliament is well exem- " plified by the case reported by May, page 508, when " the Minister in charge of the Partnership Amend- " ment Bill withdrew it when an objection was raised " that the Bill had become a new Bill, and although

" denying the extent of the Amendment, withdrew the " same.

" In conclusion, while I feel that this Bill has not " been carried through its various stages in strict " accordance with the practice of Parliament, but " thinking that the proper time to have raised the " objection was on the 28th August, when the Order " of the Day for the consideration of the first Report " of the Committee was read, and seeing that the Bill " was then recommitted, and its various clauses " amended and agreed to in the usual form, I do not " think I can say that the Bill ought to be withdrawn, " but am of opinion that it may be proceeded with."

G. S. KINGSTON, Speaker.

September 30th, 1879.

Mr. Speaker further stated—" The real objection he " had seen in the first instance was that the Bill was said " to have been considered *pro formâ*. If that had " been the case, undoubtedly it would not have been " competent for the House to alter it. But seeing that " it was discussed in the usual form—every clause " being put, including also the preamble—he thought " that that technical consideration did not hold good, " and that therefore the matter was so far in order. " The only Question then that could have arisen would " be whether the Committee would have been justified " in making so large an alteration in the title. That " might be a Question for the House to consider; but " he, after careful consideration, saw no reason why " the Bill should not be proceeded with " (cf. *Hansard*, 1879, pp. 235, 260, 322, 341, 344, 440, 551, 586, 828, 1037, 1137, 1206; V. & P., 1879, pp. 115, 123, 158, 185, 203, 224, 236).

Progress reported.

If the Committee cannot go through the whole Bill in one sitting, the Chairman is directed to report progress and ask leave to sit again.

Procedure.

Thereupon the Chairman reports to Mr. Speaker that the Committee have considered the Bill, made progress therein, and ask leave to sit again.

Subsequent day appointed for Committee to sit, and no Question for going into Committee.

Mr. Speaker asks the Member in charge of the Bill "on what day"? and being informed, puts a Question to the House—"That the Committee have leave to sit "again on_____the _____day of_____." The Committee on the Bill accordingly stands as an Order of the Day named, and upon the Order being read by the Clerk, Mr. Speaker leaves the Chair without a Question put (cf. Standing Order 284).

Resolution that Chairman leave Chair.

If, during the progress of the Bill through Committee, a resolution be carried—"That the Chairman "leave the Chair," the proceedings of the Committee are brought to a close thereby, and the Chairman is

No Report.

unable to make any Report to the House, having no instructions from the Committee. But as the House is not bound by the action of the Committee, the House may, on Motion, appoint another day for the

Committee revived.

Committee to proceed with the Bill, and the Committee, so revived, resumes where it was interrupted. The

Count out.

same practice holds good where the Bill is counted out in Committee (cf. District Courts Bill; V. & P., 1879, pp. 115, 123).

Proceedings in Committee not to be noticed till reported.

Standing Order 300 provides—No notice may be taken of any proceedings of a Committee of the whole House or a Select Committee on a Bill, until such proceedings have been reported.

Question for Report.

When the Bill has been fully considered, the Chairman puts a Question—"That this Bill (or this Bill as "amended) be reported to the House, and the Chair-"man do now leave the Chair" (cf. Standing Order 301).

Reconsideration as Amendment to reporting Bill.

The reconsideration of any clause may be moved as an Amendment to the Motion for bringing up the Report. If the Motion for Report be agreed to, Mr. Speaker resumes his Chair, and the Chairman

Procedure on reporting.

approaches the steps of the Speaker's Chair, and reports "that the Committee have gone through the Bill and "directed him to report the same without Amend-"ments," or "had made Amendments thereto," and, if necessary, adds, "and have amended the title."

After the Bill has been reported it cannot be referred to a Select Committee (cf. Standing Order 303). No reference to Select Committee after Report.

When the Bill is reported without Amendments, the adoption of the Report may be at once moved (cf. Standing Order 305). Report adopted at once, if no Amendments.

When Amendments have been made, a future day must be named for the consideration of the Report of the Committee of the whole House on the Bill, and the Bill is, in the meantime, printed (cf. Standing Order 302). If Amendments, Report considered on a later day, and Bill printed.

> If it is desired, owing to extensive alterations, to reprint a Bill as amended in Committee up to a certain date, there must be a special Order of the House therefor. Bill printed during progress in Committee.

A Bill is occasionally left in Committee and not reported, even although the whole Bill has been gone through. In such a case the Committee obtains leave to sit again, on a future day, when it is open to reconsider any clauses (cf. Procedure, District Councils Bill; V. & P., 1879, pp. 134, 172; Insolvent Bill, *ibid.*, pp. 235, 245, 246). Bill left in Committee, and not reported.

On the Motion that the Report be adopted, the whole Bill may, on Motion, be recommitted, or the Bill may be recommitted in respect of certain clauses only, or schedules, or parts of them, or to introduce new clauses and further Amendments made. Recommitment on Motion to adopt Report.

> The Standing Order relative to recommittal by the use of the words—"the Bill may be recommitted and "*further* Amendments made," evidently contemplates recommittal only in the case of Bills reported with Amendments, but it cannot be construed as prohibitory of the recommittal of a Bill where no Amendments are reported.

If the Bill be recommitted, a subsequent day to that on which this second Report is brought up is fixed for the consideration of the Report, and the Bill, as in the case of a Bill reported the first time with Amendments, is meanwhile reprinted (cf. Standing Order 306). Second Report brought up on subsequent day.

The Standing Order makes no provision for a Bill which has been recommitted with a view to further Bill recommitted, and no Amendments

made, Report adopted.

Amendments which, however, are not made. But the practice has been to allow such a Bill to be reported, and the adoption of the Report to be immediately moved, under Standing Order 305, which is—

Standing Order.

When a Bill is reported without Amendments, the adoption of the Report may be immediately moved.

Instance.

Thus, on September 7th, 1871, the Intercolonial Free Trade Bill was recommitted in respect of clause 1., as an Amendment to the Motion for agreeing to the Report. Two Amendments proposed to clause 1. were proposed, but were negatived, and the Chairman reported the Bill "without any further Amendment," whereupon the House agreed to the Report (V. & P., 1871, pp. 92, 93).

Frequent recommitments.

A Bill may be recommitted as often as the House thinks fit. Several cases occur in the Journals of Bills recommitted twice and thrice; and, in 1880, the Licensed Victuallers Bill was recommitted a fourth time (V. & P., 1880, p. 190).

Third reading, day fixed for.

When the Report is finally adopted, the House orders a day for the third reading.

Recommitment on reading Order of the Day.

When the Order of the Day is read by the Clerk, Motion may be at once made to recommit the Bill. This is a direct Motion, and not an Amendment, as no Question has as yet been put from the Chair, and must be moved the moment the Clerk has called the Order. It is not correct to move the recommitment when the Speaker has communicated to the House the Chairman's certificate, prior to putting the Question for the third reading, much less as an Amendment to the Question that the Bill be now read a third time.

Irregular to recommit after Chairman's certificate, or on Question for third reading.

Irregular procedure.

Precedents of Motions for recommitment on the Order for the third reading being read are too frequent in the Journals to require citing; but it may be of interest to quote some cases of irregular procedure.

Instances.

Thus, on August 15th, 1871, the Northern Territory Bill was recommitted after the Speaker had announced the Chairman's certificate (V. & P., 1871, p. 42), and, on September 30th, 1880, the Municipal Corporations

Chairman's certificate.

Bill was similarly recommitted (V. & P., 1880, p. 221).

Amendments to such Questions.

The Standing Order as to the Amendments permissible to the Question for the third reading is most clear—Amendments may be moved to such Question by leaving out "now" and adding "this day three "months," "six months," or any other time, or the Question may be negatived, or the previous Question moved.—Standing Order 311.

Cases of irregular recommitment as Amendment to third reading.

Yet cases may be found in the Journals of the recommitment of Bills moved as Amendments to the third reading.

Thus, on December 6th, 1866, Motion was made to recommit the Destitute Persons Relief Bill as an Amendment to the Question for the third reading, the Amendment being proposed in the usual way of Amendments, viz., to strike out all the words after "That," with a view to insert "this Bill be recom-"mitted." So with regard to the Port Adelaide Improvement Bill (V. & P., 1866-7, p. 235), and the Waterworks Consolidation Bill, 1874 (V. & P., 1874, p. 169).

The Standing Order quoted above is identical with that which prescribes the Amendments to the Question for the second reading of a Bill, *mutatis mutandis*.

No Standing Order providing for resolutions as Amendments to third reading.

But, in respect of the third reading, there is no Standing Order similar to Standing Order 282, under which resolutions may be moved as Amendments to the Question for reading a Bill the second time.

Practice.

The practice is to negative the Question, to move the previous Question, or to postpone the reading of the Bill to this day three or six months, according to the period of the Session. If the Question for "*now*" reading be negatived, as in the case of the second reading, such a vote is not fatal to the Bill.

Insertion of word "not."

On June 7th, 1874, on the Question that the Loan Bill be now read a third time, an Amendment was moved to strike out "now" and insert "not" (V. & P., 1874, pp. 73, 74).

Contrary to practice.

This Amendment should not have been allowed, as it is contrary to the Standing Order quoted, and, moreover, it is contrary to the practice of Parliament, to interpolate the word "not" into a Motion (cf. Palgrave, The Chairman's Handbook, sixth ed., p. 56).

Amendments to Bill on third reading.

"No Amendments, not being merely verbal, shall "be made to any Bill on the third reading" (Standing Order, House of Commons, July 21st, 1856).

Order for third reading discharged to amend Bill.

Should it be necessary to make material alterations, the only course open is to discharge the Order for the third reading, to recommit the Bill, and introduce the Amendments in Committee (cf. May, Practice of Parliament, p. 582).

Clerical errors.

Clerical and typographical errors may be corrected by the Chairman at any time prior to the Bill being sent to the Legislative Council (cf. Standing Order 316).

Chairman's certificate.

The Chairman's certificate, referred to above, is in writing on the Bill to the effect that the fair print is in accordance with the Bill, as agreed to in Committee and reported.

Question—That Bill pass, &c.

When the Bill has been read a third time, Mr. Speaker puts a further Question—"That this Bill do "now pass, and the title be_____." This Question is regarded as purely formal, and is not open to Amendment.

Division and debate on Question.

But a division may be taken thereon (Waterworks Bill, 1866; V. & P., 1866-7, p. 254), or a debate ensue on the Question being proposed (Payment of Troops Bill, 1868; V. & P., 1868-9, pp. 178, 256).

Question may be delayed.

Usually the Question for the passing and the title of the Bill is put from the Chair immediately upon the third reading, but delay may be interposed, if, for instance, some procedure has been omitted, which is necessary before the Bill passes (*vide ante*, p. 195).

Bill sent to other House.

When a Bill has passed through all its stages in the House, the next step is to communicate it to the other House of Parliament.

Message forwarding Bill, and Clerk's certificate on Bill.

This is done by a Message signed by the Speaker and addressed to the President of the Legislative Council, transmitting a copy of the Bill, duly certified by the Clerk in the words written at the top of the

first page—"This Public Bill originated in the House "of Assembly, and having been this day passed, is now "ready for presentation to the Legislative Council for "its concurrence."

All money votes to be recommended by the Governor.

Clause 40 of the Constitution Act provides—"It "shall not be lawful for either House of the said Par- "liament to pass any vote, resolution, or Bill for the "appropriation of any part of the Revenue, or of any "tax, rate, duty, or impost for any purpose which shall "not have been first recommended by the Governor to "the said House of Assembly during the Session in "which such vote, resolution, or Bill shall be passed."

Practice as to time when recommendation is communicated.

This provision of the Constitution Act has been taken to mean that the recommendation need not precede the introduction of any Bill where such recommendation is necessary, but may be signified at any stage prior to the final Question, "that this Bill do now pass."

Instances.

Thus the recommendation of the Crown has been signified—

Before preliminary Committee.

Before the preliminary Committee has been appointed, upon whose resolutions the Bill has been subsequently founded (V. & P., 1872, pp. 16, 17; V. & P., 1877, pp. 313, 321, 322; V. & P., 1878, pp. 321-323; V. & P., 1879, p. 276; V. & P., 1881, p. 257):

After Committee reports.

After the preliminary Committee has reported, and before the resolution has been received (V. & P., 1876, p. 228):

Before first reading.

Before the first reading of a Bill, where no preliminary Committee is appointed (V. & P., 1877, pp. 32, 37):

Before second reading.

After the first reading, and before the second (V. & P., 1872, pp. 363, 366, 373, 380, 425; V. & P., 1878, pp. 256, 263, 270):

During Committee.

After the second reading, and during the progress of the Bill through Committee (V. & P., 1872, pp. 241, 425; V. & P., 1878, pp. 84, 263; V. & P., 1879, p. 220; V. & P., 1880, p. 242):

After Report.

After the Bill has been reported, and before the Report has been agreed to (V. & P., 1878, p. 45):

After Report on recommitment.

After a Bill has been recommitted a second time, and so reported (V. & P., 1880, p. 242):

Before third reading.

After the Report has been agreed to, and before the third reading (V. & P., 1879, p. 69; V. & P., 1882, p. 186):

After third reading, and before passing.

After the third reading, and before the passing (V. & P., 1873, p. 233; V. & P., 1879, p. 73).

Bill not recommended, resolution rescinded, and proceedings renewed.

If, by any inadvertence, a Bill containing an appropriation of the Revenue has been passed without the recommendation of the Crown, the resolution of the House must be rescinded as to the passing thereof, and a Governor's Message transmitted, and the Bill again passed on Notice of Motion duly given (V. & P., 1875, pp. 165, 169, 176, Forest Board Bill).

Bill sent to Legislative Council brought back for Governor's recommendation.

If a Bill so passed has been forwarded to the Legislative Council, the error is rectified by sending a Message to the other House, requesting the return of the Bill, rescinding the resolutions as to its final stages, and procuring a Governor's Message, and then proceeding with the Bill. Or it may be deemed advisable so to amend the Bill, that a Governor's Message is not necessary. In this case the Bill must be recommitted (V. & P., 1882, pp. 272, 273, Port Augusta Wharves Bill).

Bill recommended subsequent to passing.

In the Session of 1873, a remarkable precedent occurs of a Governor's Message, recommending a Bill after the Bill had passed.

Instance.

On December 9th, 1873, the Northern Territory Gold Mining Bill was read a third time and passed, and at a later stage in the day's proceedings, a Message recommending the Bill was received (V. & P., 1873, pp. 256, 257).

Recommendation should be antecedent.

It would seem, on carefully considering the whole Question, that the proper time for the recommendation of the Crown to be signified should be at the initial stage.

"The Royal recommendation is signified to the "Commons by a Minister of the Crown, on receiving "Petitions, on Motions for the introduction of Bills, or "on the offer of other Motions involving any public "expenditure or grant of money, not included in the "annual Estimates, whether such grant is to be made "in the Committee of Supply or any other Committee, "or which would have the effect of releasing or com- "pounding any sum of money owing to the Crown" (May, Practice of Parliament, p. 508). Rule as laid down by May.

And the same authority, in contrasting the procedure connected with communicating the recommendation of the Crown with that in respect of the consent of the Crown, points out that "the former is given at the "very commencement of a proceeding, and must pre- "cede all grants of money, while the latter may be "given at any time during the progress of a Bill" *ibid.*, p. 508). Procedure on recommendation and consent differs.

The Royal consent is necessary where the prerogative or interests of the Crown are involved. This applies to Bills which are introduced with clauses affecting the Crown, or which are so amended, whether in Committee, or by instructions to Committees, or by Amendments made in another place. The consent, as already stated, may be signified at any time, even on the final stage, "that this Bill do now pass, &c." Consent of Crown necessary where prerogative concerned. Consent, when signified.

Thus, on October 3rd, 1871, in respect of the Glenelg Railway (Private) Bill, which had, as usual, been referred to a Select Committee, the consent of the Crown was notified in this case before the Report of the Select Committee had been brought up, by the following Message:— Instance.

"The Governor informs the House of Assembly "that, having been informed of the purport of a "'Private Bill for an Act to authorise the construction "'of a Railway from Adelaide to Glenelg, and for "'other purposes,' he gives his consent so far as Her "Majesty's interest or the interest of the Government "is concerned, to the intent that the House may do

"therein as they may think fit" (V. & P., 1871, p. 143).

Clerk's certificate on Bills recommended.

In the case of Bills requiring the Governor's recommendation, the Clerk certifies accordingly on the Bill, which he takes to the Legislative Council.—Standing Order 317.

Clause 40, Constitution Act.

The strict interpretation of clause 40 of the Constitution Act would seem to be that, a Bill, which requires the recommendation of the Governor, cannot originate, except in the House of Assembly. But this view has not always been insisted upon.

Bill originating in Council.

Thus, in 1872, the Destitute Persons Relief Bill was received from the Legislative Council and read a first time, but before the second reading it was recommended by Message from the Governor (V. & P., 1872, p. 241).

And amended in House so as to require recommendation: ordinary certificate inapplicable.

While the Bill was in Committee of the whole House, an Amendment was inserted to enable payment to be made to persons with whom destitute children were boarded out, for the care, clothing, and education of such children, and as such payments would come out of the general Revenue, the recommendation of the Governor was necessary. But it was from the nature of things, the Bill having originated in the Legislative Council, impossible for the Clerk to put the certificate thereon contemplated by the Standing Orders, and which is—

Ordinary certificate.

"This Public Bill originated in the House of "Assembly, and the purposes for the appropriation of "the Revenue were first recommended to the House "by the Governor during the present Session, and the "Bill having this day passed, is now ready for presen-"tation to the Legislative Council for its concurrence."

Certificate in instance quoted.

The certificate placed on the Bill was merely—"This Bill with the annexed Amendments has been "agreed to by the House of Assembly."

Instance of Glenelg Railway Bill, 1881, received from Council and

Again, in the Session of 1881, after the Glenelg Railway Bill, which was received from the Legislative Council, had been reported, a Message was received

from the Governor, recommending "to make provision "by Bill for payment to the Glenelg Railway Com- "pany of a sum not exceeding £2,500," &c. recommended to House subsequently.

The Bill was subsequently recommitted, on Motion, and the Governor's Message referred to the Committee on the Bill. The Governor's Message was read by the Chairman, and a resolution agreeing thereto passed Procedure.

The Bill was then further reconsidered, and amended, and reported: the Report specifically stating that the Committee had agreed to the Message recommending the appropriation of the Revenue (V. & P., 1881, pp. 241, 252). Special Report.

The certificate on the Bill was—"This Bill has been "agreed to by the House of Assembly with the Amend- "ments indicated by the annexed schedule, the Amend- "ment for the purpose of an appropriation of the "Revenue having been first recommended to the House "by the Governor during the present Session." Special Certificate.

In the Session of 1882, a very similar case occurs in the matter of the Ocean Dock Bill. This Bill was received from the Legislative Council, and having been through Committee of the House, was reported (V. and P., 1882, p. 270). Instance of Ocean Dock Bill, 1882, originating in Council.

On the next day a Message was received from the Governor, recommending the House "to make "provision, by Bill, for the payment to 'the Ocean "'Dock Company (Limited),' of interest at the rate of "four per cent. per annum on the sum of £14,000 de- "posited by the said Company, in the event of such a "sum being repaid to the Company under Act of Par- "liament." At a later stage in that day's proceedings a Message was received from the Legislative Council, asking for the return of the Bill, with a view to rectify an error which had been made in passing it *(ibid.*, pp. 272, 273). And recommended to House. Procedure. Bill returned to Council.

It was explained that the Bill was passed, containing a provision as to the right of resumption of the property by the Government, and authorising the payment of the amount of the valuation out of the Revenue, Having been improperly passed in Council.

and that this ought not to have been inserted in the other House at all, and could not be inserted in the House of Assembly without a Message from the Governor (*Hansard*, 1882, p. 1467).

The Bill was accordingly returned, and in due course came back again to the House, and in Committee an Amendment was inserted in terms of the Governor's Message (V. & P., 1882, p. 291; *Hansard*, p. 1545).

Special certificate.

The certificate on the Bill was—"This Bill, with the "annexed Amendment, has been agreed to by the "House of Assembly, the purpose for the appropriation "of the Revenue having been first recommended to the "House by the Governor during the present Session."

Rule established by the precedents cited.

The practice adopted and sanctioned in respect of these two latter Bills would seem to establish the rule, that, provided the clause in a Bill which appropriates Revenue is inserted in the House of Assembly, the Bill itself may originate in the Legislative Council.

Expedient in Imperial Parliament to allow Bills of the nature of Money Bills to originate in the Lords.

In the Imperial Parliament an expedient has been resorted to, to enable Bills, which are in effect money Bills, to originate in the House of Lords.

"The Bill is presented and printed, with all the ne-"cessary provisions for giving full effect to its object, "and is considered and discussed in the House of Lords "in that form. But on the third reading, any pro-"visions which infringe upon the privileges of the "Commons are struck out, and the Bill having been "drawn so as to be intelligible after their omission, is "sent to the Commons without them. These provisions, "however, are printed by the Commons in red ink, "with a note, that they 'are proposed to be inserted in "'Committee' (according to the usual form they are "supposed to be in blank); they form no part of the "Bill received formally from the House of Lords, and "no privilege is violated. But the Commons are thus "put in possession of a Bill containing every provision "which will be necessary for giving it full effect, and in "Committee the words printed in red ink, if approved, "are inserted" (May, Practice of Parliament, p. 644).

Opinion of Mr. Gladstone cited, adverse to this practice.

Mr. Gladstone has commented on this practice in terms of severe condemnation. "The House of Lords has "done very great mischief in this respect, by voting into "Bills the establishment of officers, and appointment

"of salaries, and sending these Bills to the Commons, "with all such portions printed in italics, a conven- "tional expedient adopted in order to show that they are "not presented as parts of the Bill, but only as indica- "tions of the view or wish of the House of Lords in "matters, however, in which they have, as a body, no "more right or title than the House of Commons has or "had to send in italics, or by any subterfuge, to the "Lords a direction as to the judgments to be given in "Appeals. Here, then, we have a real case in which a "power of the Crown has been greatly and mischie- "vously weakened" (cf. Gladstone, Gleanings of Past Years, vol. I., p. 81).

It is sufficient to add that, an unwritten constitution is more elastic than one which is contained within the four corners of an Act of Parliament.

Bill laid aside in Council, as wanting recommendation.

If a Bill, requiring the Governor's recommendation, be passed and forwarded to the Council, without such recommendation being certified, and without the House discovering the omission and requesting the return of the Bill, and be there laid aside in consequence of such omission, the procedure is to appoint a Committee of the House to search the Journals of the Council and to report to the House. The Committee withdraws immediately and the House suspends its sitting, and resumes to receive the Report. If it is ascertained that the Bill has been laid aside, it is then competent to move that the resolution of the House on which the Bill was founded be read, and the Bill may be again introduced on the same resolution.

Search Committee appointed by House.

Bill re-introduced in House.

Instance.

Inscribed Stock Bill, 1882.

Thus, in the matter of the Inscribed Stock Bill, 1882, Motion was made that a Committee be appointed to inspect the Journals of the Council, it being explained that, although it was known that the Bill had not passed the other House, there was no official knowledge thereof. The Committee of Search was appointed, and duly reported an Entry in the Journals to the following effect:—

Entry in Journals of Legislative Council reported to House, and

"Friday, November 10th, 1882—

"17. Mr. Ramsay asked the President if he was pre- "pared to give his ruling with regard to the 'Inscribed "'Stock Bill.'

President's ruling.

"The President (Sir H. Ayers, K.C.M.G.) in reply "stated—

"I am of opinion, under the 40th clause of the 'Con- "'stitution Act,' that this Council cannot proceed with "this Bill, as it does not come with a certificate to the "effect that it has been recommended to the House of "Assembly by His Excellency the Governor. That the "Bill clearly appropriates Revenue, I think there can be "no doubt. Its object is to give the Governor the "power to convert debentures now existing, or hereafter "to exist, into inscribed stock, which stock will be liable "for interest. But it goes further—it authorises the "issue of new stock to meet the expenses in connection "with the conversion of debentures into stock. A very "large sum must be paid to some Bank to carry out the "provisions of this Act, and therefore it proposes to "appropriate Revenue. The 6th clause provides, very "properly, that the principal money due and payable in "respect of any stock, together with all interest payable "thereon, shall be paid by the Treasurer out of the "General Revenue, and the next clause provides for the "remuneration of the Bank for the inscription of the "stock. I think these provisions are very properly in "the Bill; but being in it, and there being no certificate, "I am of opinion that we cannot further proceed with "it. It will be for the Commissioner of Public Works "to determine what course he will take so as to cure the "error. Two courses are open to him. He may move "that the Bill be laid aside, and his colleagues in the "other House may bring in a fresh Bill, covered by a "proper recommendation, or the Bill may be delayed "for the purpose of getting the Council to return the "Bill to the other House. I have no doubt as to the "correctness of the ruling I have given.

Subsequent procedure.

"Ordered—That the Bill be now laid aside."

Original resolution of House read.

Motion was then made, and Question put and passed —"That the resolution of this House of the 31st Octo- "ber (page 262 of V. & P., p. 17) be read."

Bill re-introduced.

And upon this being read, the Treasurer presented

the Bill at the Bar, which was read a first time, and passed through all stages by suspension of the Standing Orders. The Governor's recommendation had been received by Message the same day, and the above proceedings were taken immediately thereafter (V. and P. 1882, pp. 295-297.)

Clause 34 of the Constitution Act provides—"The "said Parliament shall have full power and authority, "from time to time, by any Act, to repeal, alter, or "vary all or any of the provisions of this Act, and to "substitute others in lieu thereof: Provided that it "shall not be lawful to present to the Governor, for "Her Majesty's assent, any Bill by which an alteration "in the Constitution of the said Legislative Council or "House of Assembly may be made, unless the second "and third reading of such Bill shall have been passed "with the concurrence of an absolute majority of the "whole number of the Members of the said Legislative "Council and of the House of Assembly respectively: "Provided also, that every Bill which shall be so "passed shall be reserved for the signification of Her "Majesty's pleasure thereon."

Clause 34, Constitution Act.

Power to Parliamen to alter thi Act.

And Standing Order 315 enacts—Whenever any Bill, by which an alteration in the Constitution of the Legislative Council or House of Assembly is proposed to be made, shall have passed its second and third readings in the Assembly, with the concurrence of an absolute majority of the whole number of Members of the Assembly, the Clerk shall certify the fact on the Bill accordingly.

Standing Order 315.

Certificate on Bill for altering Constitution.

The certificate is as follows—"This Public Bill "originated in the House of Assembly, and passed its "second and third readings in the Assembly with the "concurrence of an absolute majority of the whole "number of Members of the Assembly, and having "this day passed is now ready for presentation to the "Legislative Council for its concurrence."

Clerk's certificate on Bill affecting constitution.

When such Bills are read a second and third time, the Speaker counts the House in order to ascertain the

Speaker counts House to ascertain

actual majority.

presence of an actual majority, before putting the Question. If, when the Question is put, there be a dissentient voice, the House must divide.

Instances.

The following precedents from the Journals will illustrate the practice—

Constitution Bill, 1872.

In 1872, on the Motion that the Constitution Bill be read a second time, "the Speaker counted the House "and, twenty-three Members being present, put the "Question, which was carried without any dissentient "voice. Bill read a second time" (V & P. 1872, p. 534); and a similar entry records the third reading (*ibid.*, p. 538).

Council Retirement Bill, 1876—Second reading.

In 1876, the Council Retirement Bill passed its second reading in a similar way, without a dissentient voice, the Journal recording the presence of "twenty-"seven Members, exclusive of the Speaker" (V. & P., 1876, p. 169).

House not counted prior to third reading—Division taken; Bill lost.

The House was not counted prior to the Question for the third reading, but a Division being taken, and the Question passing in the affirmative, "The Speaker "ruled—That, as the Motion for the third reading of "the Council Retirement Bill has not been carried by "an absolute majority of the whole number of the "Members of the House of Assembly, the Bill could "not now be further proceeded with" (*ibid.*, p. 302).

Electoral Districts Bill, 1877—Second reading; House counted.

In 1877, before putting the Question for the second reading of the Electoral Districts Bill—"The Speaker "counted the House, and, thirty-three Members being "present, put the Question, which being carried with-"out any dissentient voice, the Bill was read a second "time" (V. & P., 1877, p. 27).

Third reading negatived.

There is no record in the Journal of the House being counted before the Question for the third reading, but the Question passed in the negative (*ibid.*, p. 88).

Electoral Bill (No. 2), 1879—Second reading; House counted.

In 1879, the House was counted before putting the Question for the second reading of the Electoral Bill (No. 2), and a division being taken, the Question passed in the affirmative by an actual majority, and the Bill was read a second time (V. & P., 1879, p. 156).

The third reading was put and passed, without any previous count of the House, on October 15th, 1879 (*ibid.*, p. 274): but, on October 21st, the resolutions of October 15th were read and rescinded, and the Speaker having counted the House put the Question, which was carried *nem. con.* (*ibid.*, p. 286).

Third reading—No count; Bill passed.

Resolution subsequently rescinded and procedure corrected.

In the same Session the Question for the second reading of the Constitution Act Amendment Bill was put and declared passed, without previous count, but voices being given in the negative, the House divided, and the Question resolved in the affirmative by an absolute majority, which is duly noted in the Journal (*ibid.*, p. 195).

Constitution Amendment Bill—Second and third readings carried on division by actual majority; no previous count.

The third reading was put, also without previous count, and, the House dividing, was carried by an absolute majority (*ibid.*, p. 217).

In 1880, the Speaker counted the House before putting the Question for the second reading of the Electoral Districts Bill, and voices being given in the negative the House divided, and "there being an "absolute majority of the total number of Members of "the whole House, the Bill was read a second time" (V. & P., 1880, p. 39). The House was not counted by the Speaker before putting the third reading, but voices being given in the negative, the Speaker counted the House, and, thirty-three Members being present, put the Question. The House divided, and the division list shows an actual majority, but the entry does not as usual call attention to this fact (*ibid.*, p. 44).

Electoral Districts Bill, 1880—Second reading; House counted.

No count prior to Question for third reading; but on voices being given, House counted, and division taken with absolute majority.

In 1882, the House was not counted before putting the Question for the second reading of the Constitution Amendment Bill, the entry being—

"Question put—House divided—Ayes, 25; Noes, 3"; but attention is called to the fact of the absolute majority (V. & P., 1882, p. 123). Before putting the third reading the Speaker counted the House, and, there being twenty-eight Members present, put the Question, which was carried *nem. con.* (*ibid.*, p. 164).

Constitution Amendment Bill, 1882—Second reading; House not counted, but division showed actual majority.

Read a third time after count.

Constitution Amendment Bill, 1870—Second reading without count; Division showed less than absolute majority.

In 1870, the question for the second reading of the Constitution Amendment Bill was put without counting the House. A division was taken, and the question passed in the affirmative, but the list showed that the majority was not an absolute one.

Bill thereby disposed of.

"The Speaker ruled that, as the Motion for the "second reading had not been carried by an absolute "majority of the whole number of the Members of the "House of Assembly, the Bill could not now be further proceeded with" (V. & P., 1870, p. 164).

Attempt to revive the Bill.

An attempt was made at a later period of the Session to revive the Bill by a Motion—"That the Constitution "Amendment Bill be now read a second time."

Not permitted on the grounds of a Question already decided.

"The Speaker drew attention to the 184th Standing Order, and the Votes and Proceedings for "Thursday, September 8th (p. 164, *sic. rectius*, p. 154), "on which day it was resolved—'That this Bill be now "'read a second time,' and ruled that the Question—"'That this Bill be now read a second time' having on "that day been resolved in the affirmative, the Question "could not be again proposed during this Session" *(ibid.*, p. 277).

Constitution Amendment Bill, 1871, similar precedent.

In 1871, the Constitution Act Amendment Bill was read a second time under precisely similar circumstances, and the Speaker gave a ruling identical with that quoted in the former case (V. & P., 1871, p. 165).

Bills returned by Council.

Bills transmitted by the House to the Council, after passing the latter, are returned without or with Amendments, in a Message indicating the same. If returned without Amendments, after Mr. Speaker has reported the Message, no further Question or discussion can arise.

If without Amendment, no further action.

Amendments by Legislative Council.

Standing Order 319 enacts—When a Bill shall be returned from the Legislative Council with Amendments, the Message with such Amendments shall be ordered to be printed, and a day fixed for taking the same into consideration.

Considered in Committee.

The Amendments are considered in Committee (cf. Standing Order, 322).

When the Order of the Day is read for the consideration in Committee of the Council's Amendments to the Bill, a Question is put that Mr. Speaker do now leave the Chair, and the House resolve itself into a Committee of the Whole for the consideration of the Amendments made by the Council in the Bill.

Order read, Committee Motion made.

This Question may be negatived, or an Amendment may be moved that the consideration in Committee be postponed for three or six months or any period beyond the probable duration of Session.

Question for Committee negatived or amended.

But the usual course is to allow the House to go into Committee for the consideration of the Amendments.

Amendments usually considered; if agreed to, Message sent.

If the Amendments are agreed to simply, a Message is sent informing the Council thereof.

If the Amendments are of a nature and character which seem, in however slight a degree, to affect the Privileges of the House, yet are not such as the House deems it necessary to disagree with, or to lay aside the Bill in consequence thereof, the Amendments are agreed to with a special entry, explaining the grounds of such agreement (V. & P., 1857, pp. 200, 225; V. and P., 1868-9, pp. 201, 267; V. & P., 1870-71, p. 329; V. & P., 1873, p. 193; V. & P., 1874, p. 408; V. & P., 1876, pp. 187, 323; V. & P., 1878, p. 321).

Amendments affecting Privilege, how dealt with.

Standing Order 320 enacts—With respect to any Bill brought to the House from the Legislative Council, or returned by the Legislative Council to the House, with Amendments, whereby any pecuniary penalty, forfeiture, or fee shall be authorised, imposed, appropriated, regulated, varied, or extinguished, the House will not insist on its Privileges in the following cases:—

Nature of certain Amendments.

(1) When the object of such pecuniary penalty of forfeiture is to secure the execution of the Act, or the punishment or prevention of offences:

(2) Where such fees are imposed in respect of benefit taken, or service rendered under the

Act, and in order to the execution of the Act, and are not made payable into the Treasury, or in aid of the Public Revenue, and do not form the ground of public accounting by the parties receiving the same, either in respect of deficit or surplus:

(3) When such Bill shall be a Private Bill for a local or personal Act.

Amendments variously treated.

The Amendments of the Council may, however, be treated in the House in a variety of ways.

Thus they may be—

Agreed to with Amendments (V. & P., 1872, p. 304):

Partly agreed to and partly disagreed to (V. and P., 1881, p. 176):

Partly agreed to and partly amended (V. & P., 1877, p. 366):

Partly agreed to, partly amended, and partly disagreed to (V. & P., 1880, p. 273):

Disagreed to wholly.

Amendment improper to be made, agreed to.

If an Amendment of the Council has been agreed to, and it is subsequently discovered that such an Amendment was one which it was not proper for the Council to make, the resolution of the House agreeing to such Amendment, will be read and rescinded, and another Bill of the same title may be introduced (V. & P., 1865-6, pp. 152, 155).

Amendments infringing Privilege.

Amendments will not be entertained by the House if they are substantial infringements of Privilege.

Instance.

Port Wakefield Tramway Bill, 1866-7.

Thus, the House having gone into Committee to consider an Amendment of the Council in the Port Wakefield Tramway Bill, the House resumed to take Mr. Speaker's opinion, and it being ruled—"That the "Amendment in question was an infringement of the "Privileges of this House, as defined in clause 1 of "the Constitution Act"—the House went again into Committee, progress was reported, and leave given to sit again to-morrow.

On the morrow the Order of the Day was discharged, leave given to withdraw the Bill, and introduce another, which was at once done (V. & P. 1866-7, pp. 275, 279). Bill withdrawn and another introduced.

A precisely similar case and identical procedure occurs in respect of the Northern Territory Act Amendment Bill of 1868 (V. & P. 1868-9, p. 140); cf. also Real Property Amendment Bill (V. & P., 1869-70, pp. 221, 222); Audit Bill (V. & P., 1870-71. p. 289); Port Augusta Railway Bill *(ibid.* pp. 436 and 447). Other instances.

The procedure in Committee is as follows:—The Member in charge of the Bill informs the Committee of the general scope and tendency of the Amendments, and indicates the course he proposes to the Committee for adoption, *i.e.*, what Amendments he asks the Committee to agree to, disagree to, or amend. If it is intended to agree or disagree to the whole, it is customary to put one Question thereon; but if to agree to some, and to amend, or disagree to others, the Amendments are put *seriatim*. Procedure in Committee on Amendments.

The proper way of putting the Question is—"That "the Amendment be agreed to" whether it is proposed to agree or disagree therewith, and for the Committee to affirm or negative the Question. An Amendment to insert "not" is inadmissible. Question on Amendments, how put.

The Question is, however, occasionally put in the form—"That the Amendment be disagreed to" (V. and P., 1870-71, p. 430). Occasional, but less correct form.

> An inconvenience might arise from putting the Question in this way, for, if negatived, another Question would have to be put, viz.:—"That the Amendment be "agreed to." There are, however, many precedents in the journals for the Question—"That the Amendment "be disagreed to" (cf. a late instance, V. & P. 1883-4, p. 287). Inconvenience from Question so put.

If it is proposed partly to agree to and partly amend a particular Amendment, or partly agree and partly disagree thereto, a Question is put *ex. gr.*—That Amendment No. 31, as regards striking out clauses Nos. 36, 37, 38, be agreed to; and if this is affirmed, a Question is put with regard to that part of the Amend- An Amendment treated variously. Question, how put.

ment which it is proposed to disagree to, *ex. gr.*—That Amendment No. 31, as regards striking out clause No. 39, be agreed to, which would be negatived (cf. Procedure Waste Lands Alienation Bill, V. & P., 1870-71, p. 437).

Amendment to Amendment.

If it is proposed to amend an Amendment, it is customary for the Chairman to read the Amendment by the Council, when the Amendment thereto can be proposed in the usual way of Amendments to Questions.

Report of Committee on Amendments.

It will not be necessary to describe every variety of procedure in dealing with Amendments in Bills returned to the House. When the Committee has gone through the Schedule of Council Amendments, the Report is brought up. The House may agree to the Report, either wholly or in part.

Reconsideration of Amendments. Procedure by recommitment

If it is desired to recommit any of the Amendments for reconsideration, the House may decline to agree to so much of the Report as regards the Amendments sought to be recommitted. In this case Motion may be made that those particular Amendments be recommitted; and if this be affirmed, the House goes again into Committee, reconsiders the Amendments, and a further Report is brought up (V. & P., 1870-71, pp. 438, 439, 440).

Further Amendments, Schedule.

If the Amendments of the Council are agreed to with Amendments, a Schedule of such further Amendments is prepared and attached to the Bill, certified by the Clerk (cf. Standing Order 325).

Consequential Amendments. Nature and limitation of.

In addition to Amendments made by the House in the Amendments of the Council, it is competent for the House to make what are termed "Consequential "Amendments," that is, Amendments consequent upon or relevant to the Amendment under discussion. These may be made in the body of the Bill or in the Amendments; but care must be taken to maintain the spirit of the rule, that neither House, at the time of considering a returned Bill, leave out or otherwise amend anything which they have already passed themselves (cf. May, Practice of Parliament, p. 587; Denison's Decisions, p. 41).

Consequential Amendments must be strictly consequent or relevant. It would not be competent to move an Amendment in the Bill which had not been touched by the other House (cf. Brand's Decisions, 1881, p. 12).

Fresh matter may not be imported.

It has been ruled that, if the House decides to disagree with an Amendment by the other House, to strike out words, the effect being to restore the words struck out; the words of the clause kept alive by the disagreement with the Amendment are open to Amendment (cf. Brand's Decisions, 1881, p. 13).

Effect of revival of original words, Amendment thereof.

Standing Order 324 provides—In any case, when a Bill is returned to the Legislative Council with any of the Amendments made by the Council disagreed to, the Message containing such Bill shall also contain written reasons for the Assembly not agreeing to the Amendments proposed by the Legislative Council; and such reasons shall be drawn up by a Committee of three Members, to be appointed for that purpose, when the House adopts the Report of the Committee of the whole House, disagreeing to the Amendments in question.

When Amendments returned to Legislative Council disagreed to, reasons to accompany them.

Frequent instances occur in the Journals where only two Members have been appointed a Committee to prepare the reasons for disagreement (V. & P., 1867, p. 259; V. & P., 1873, p. 142; V. & P., 1875, p. 30; V. & P., 1876, p. 322; V. & P., 1877, pp. 288, 290, 359; V. & P., 1879, p. 302; V. &. P., 1880, pp. 273, 274).

Instances of Committee of two Members only.

When the Report of this Committee is brought up, Motion is usually made that the reasons be adopted by the House and transmitted to the Council in a Message, returning the Bill, and informing the Council, *ex. gr.*—"That the House had agreed to Amendments Nos. 5 "to 13, and had disagreed to Amendments Nos. 1, 2, "3, and 4, and had agreed to Amendment No. 14 with "an Amendment thereto" (cf. Crown Lands Bill, 1883-4; V. & P., 1883-4, p. 287).

Report of Committee for reasons.

But it is competent, on the Motion that the reasons be adopted, to move an Amendment in the usual way,

Amendment on Motion to adopt reasons.

for referring the reasons back to the Committee for reconsideration (V. & P., 1882, p. 274), or to move an Amendment to any of the reasons (cf. V. & P., 1874, p. 115).

Expedition in dealing with Amendments.

Towards the close of Session, and at other times as well, when the Amendments are merely verbal or unimportant, it is the custom to suspend the Standing Orders to enable the Amendments made by the other House to be at once considered. Occasionally, also, with a view to expedition, two or more Messages of the Council returning Bills with Amendments are referred to one Committee (cf. V. & P., 1874, pp. 340, 403, 408).

Procedure on disagreeing with Council's Amendments.

If the House disagrees wholly to the Amendments of the Council, it is competent—

(1) To lay the Bill aside; or

(2) To send it back to the Council with a Message desiring its reconsideration (cf. Standing Order 323).

Procedure in Council with Bill when again sent up.

The Legislative Council having received the Bill back once more, with its Amendments dealt with in any of the ways indicated above, may either—

(1) Disagree to the Amendments of the House and insist on its original Amendments; or

(2) May agree to the Amendments with further Amendments; or

(3) May partly agree and partly insist; or

(4) May not insist.

Council Message printed and considered on a subsequent day.

As in the first instance, unless where the Council does not insist on Amendments to which the House has disagreed wholly, the Message returning the Bill is ordered to be printed, and a Day fixed for considering the reasons of the Council in Committee.

Three courses are then open—

Procedure.

(1) The House may agree to the requirements of the Council, and finally pass the Bill informing the Council thereof by Message.

In this case the Question is put in Committee in the form—"That the Committee does not insist on its "Amendment to the Amendment of the Legislative "Council in the_____Bill" (V. & P., 1877, pp. 372, 373).

(2) The House may disagree to the requirements of the Council, in which case the Bill is finally laid aside.

In this case the Question is put in the form—"That "the Committee disagree to the requirements of the "Legislative Council," and the Bill is laid aside (V. and P., 1883-4, p. 322).

(3) The House may request a Conference.

The practice in regard to Conferences has been fully explained elsewhere, and it is not necessary to repeat it here (*vide ante*, pp. 105-112).

Legislative Council can only verbally amend Money Bills.

In the case of Money Bills the House will not entertain any Amendments made thereto by the Legislative Council, except such as are of a merely verbal and formal character, in no way affecting the sense or intention of the House in originating such Bill, nor dealing with the money clauses thereof.

Nor will the House permit an Amendment which inserts a money clause into a Bill.

Amendment of Council inserting a money clause agreed to by House (Jury Bill, 1866); Proceedings rescinded and new Bill introduced.

On January 10th, 1866, the House agreed to an Amendment of the Council in the Jury Bill with an Amendment; but on the following day the Standing Orders were suspended with a view of enabling the following Motion to be made without a previous notice, and a Bill to be introduced and passed through its various stages without delay, viz.:—"That inasmuch as "it appears that the clause inserted by the Legislative "Council in the Jury Bill, 1865, is a money clause, "and provides for the payment of public money, not "contemplated by the recommendation of the Gover-"nor-in-Chief in Message No. 16, the resolution of the "House of January 11th, for agreeing to such clause "with a verbal Amendment, be read and rescinded." Immediately thereupon the Attorney General presented a Message from the Governor, and a second Bill was passed through all its stages (V. & P., pp. 152, 155, 1865-6).

House will not agree to Amendment in Money Bills.

Should the Council return a Money Bill with an Amendment, the House will not agree thereto, and will either lay aside the Bill, or return the Bill with rea-

sons for disagreeing to such Amendment. Should the Council insist, the Bill will be laid aside, and another of a similar nature introduced (cf. Procedure *re* Loan Bill No. 1; V. & P., 1874, pp. 108, 113, 137, 165).

Present practice.

Suggestions by Council.

But it has of late years become the established custom for the Legislative Council not to attempt to amend Bills of this class, but to return the Bill with a memorandum of a suggestion of Amendments in a Message desiring the concurrence of the House therewith.

Instance of suggested Amendments.

Thus, in the same Session as that referred to above, the House having laid aside Loan Bill No. 1, and immediately passed through all its stages Loan Bill No. 2, the Council returned this Bill with a suggestion of Amendments (V. & P., 1874, p. 181).

A similar course was adopted in respect of the Public Purposes Loan Bill, 1875 (V. & P., Special Session, 1875, p. 28); the Railway Loan Bill, 1876 (V. & P., 1876, p. 277); the Public Purposes Loan Bill, 1876 (*ibid.*, p. 320); the Public Works Loan Bill, 1878 (V. and P., 1878, p. 333).

Procedure on Suggestions.

The procedure in respect of suggestions is up to a certain point identical with that in respect of Amendments in a Bill which is returned by the Council. Thus the Message with its enclosure is ordered to be printed and taken into consideration on a future day.

> In cases of emergency and where expedition is desirable, the Standing Orders may be suspended, to enable the Message with its enclosure to be considered immediately.

The suggestions of the Council may be—

(1) Adopted by the House; or

(2) Disagreed to.

Suggestions accepted—Bill recast.

If the suggestions be adopted, as the Bill has been returned unamended, it is necessary for the House to recast the Bill, so that the suggested Amendments which the House has adopted be incorporated in the Bill.

Procedure.

Motion is therefore made that the resolutions of the House for agreeing to the Report of the Committee of

the Whole House on the Bill, and for the third reading and passing thereof, be rescinded. This being affirmed, a consequent motion is made for the House to go into Committee for the further consideration of the Bill. The Bill is then considered in Committee, the suggested Amendments inserted, the Bill reported, and passed through its remaining stages. Finally a Message is sent to the Council, in reply to their Message, with suggestions, informing the Council that the House has adopted the suggestions, and has inserted the Amendment in the Bill for reasons stated, and returns the Bill desiring the concurrence of the Council thereto (cf. Procedure Loan Bill No. 2, 1874; V. & P., 1874, pp. 181, 185, 186. Loan Bill No. 1, 1876; V. and P., 1876, pp. 277, 280, 290).

Suggestions declined.

If the House declines to adopt the suggestions of the Council, a Committee is appointed to prepare the reasons of the House of Assembly for not adopting the suggestions of the Council, and a Message is sent to the Council transmitting such reasons and returning the Bill.

Procedure.

Amendments to reasons.

The reasons, when reported to the House, and Motion made for agreement thereto are open to Amendment, similarly as reasons for disagreeing to Council's Amendment (cf. V. & P., 1876, p. 322; 1874, p. 115).

Suggestions not insisted on—Bill returned.

If the Council does not desire to insist upon the suggestions, a Message is sent to the House simply returning the Bill "without any Amendment" (V. & P., Special Session, 1875, pp. 30, 38).

Insistence in Council, and Bill there laid aside.

If the Council negatives the Question "That the "suggestions made to the House of Assembly be not "insisted on," the Bill is disposed of in the Council by a consequent motion "That the Chairman leave the "Chair" (Minutes Legislative Council 1876, p. 128).

Precedent of Loan Bill, 1878.

In the Session of 1878 a remarkable precedent occurs of the action of the House in respect to a Loan Bill returned by the Council with a suggested Amendment. The Message was considered in Committee on November 29th, and the Question, "That the suggestion _____ "be not agreed to," was carried by the casting vote of the Chairman, on the proper grounds of upholding a vote

House retraces proceedings after declining suggestions, and subsequently accepts them.

of the House. The Chairman having made his Report, the Committee for reasons was appointed, and the Question for agreeing to the reasons was carried by the casting vote of the Speaker. Subsequently, on the Motion of a private Member, the Standing Orders were suspended during the same sitting, the above resolution of the House read and rescinded, and the suggestion of the Council again considered in Committee. The Question was again put in the form "That the suggestion be not "agreed to," and negatived on division. Motion was then made and Question put "That the suggestion be "agreed to," and affirmed. The consequent procedure was that already described, viz.—The resolution of the House for agreeing to the Report of the Committee on the Bill, and for the third reading and passing were rescinded, the Bill again committed, further amended, and carried through all stages, a Message being sent to the Council notifying the Amendment of the Bill in terms of the suggestion, and giving reasons therefor (cf. V. & P., 1878, pp. 334-339).

Bills coming the first time from the Council.

Public Bills coming to the Assembly the first time from the Legislative Council shall be proceeded with in all respects as similar Bills presented in pursuance of Orders of the Assembly (cf. Standing Order 329).

Bill improperly originating in Council.

Should any such Bill appear to be one which ought to have originated in the House, the House will not entertain it.

Instance—Claimant's Relief Bill, 1866.

Thus, on March 15th, 1866, the Claimant's Relief Bill was received from the Council, and Mr. Speaker, in reply to a Question, stated his opinion that the Bill contained an appropriation of the Revenue, and ought to have originated in the House on the recommendation of the Governor, and therefore could not be entertained by the House (V. & P., 1865-6, p. 314; cf. also V. and P., 1872, p. 217).

Certificate when returned to the Council.

When every such Bill shall have been passed by the Assembly, it shall be returned to the Legislative Council, by Message, with the Clerk's certificate—"That the House of Assembly have this day agreed to "this Bill without Amendment"; or, "With the "Amendments indicated by the annexed Schedule," as the case may require.—Standing Order 320.

Form of Schedule of Assembly's Amendments on a Bill.

When any Amendments shall have been made by the Assembly on a Bill which shall have been first passed by the Council, a Schedule of such Amendments shall be prepared, containing reference to the page and line of the Bill where the words are to be inserted or omitted, and describing the Amendments proposed; and this Schedule shall be attached to the Bill, and certified by the Clerk of the Assembly.—Standing Order 335.

Procedure on Amendments to Council's Bills.

The procedure, which is followed in respect of the interchange of Amendments in Bills originating in the Council, is governed by the same principles as laid down in respect of Bills originating in the House.

Various methods of dealing by Council with Amendments by House.

Thus, the Legislative Council may—

(1) Agree to the Amendments made by the House in their Bill; or

(2) May disagree thereto; or

(3) May make further Amendments thereon; or

(4) May agree to some and disagree to others; or

(5) May partly agree to certain Amendments, partly disagree, and partly amend.

Council Message, when considered.

Where the Amendments are not agreed to wholly, the Message returning the Bill to the House with the Schedule and reasons are ordered to be printed, and a day fixed for considering the same.

Message to Council.

Unless the House orders the Bill to be laid aside on considering the Council's action in respect of the Amendments of the House, whatever course is adopted by the House is communicated to the Council by Message.

Schedule of further Amendments on Council's Amendments.

If the House further amends the Council's Amendments on the original Amendments of the House, a certified Schedule is prepared and attached to the Bill.

Committee for reasons.

If the House returns the Bill, disagreeing to any of the Council's Amendments on those made by the House, the Message contains reasons for such disagreement, drawn up by a Committee of three Members, precisely as in the case of Bills originating in the House.

No reasons where disagreement and insistence simply.

But, if the House simply disagrees to such Amendments, and insists upon its own original Amendments, the Message returning the Bill does not contain reasons.

Object of reasons.

The object of offering reasons is to persuade the other House, not to justify the resolutions of the House.

Presentation.

A Bill which has originated in the House, and has passed both Houses, is now ready for presentation to the Governor.

Bills finally passed, certified, and presented to the Governor.

Standing Order 338 enacts—Every Bill originated in the Assembly which shall pass the Legislative Council without Amendment, and every such Bill which shall be returned to the Assembly with Amendments by the Legislative Council, to which the Assembly shall finally agree, shall be fair printed, and four copies thereof presented by the Speaker to the Governor for Her Majesty's assent; the Clerk of the Assembly having previously certified in writing at the end of the Bill that he has examined such fair print, and found it to correspond in all respects with the Bill as finally passed by both Houses, and provided that at the top of the first page of such fair print the Speaker of the House of Assembly shall have certified that it originated in the House of Assembly, and has been finally passed by both Houses.

Six copies presented.

It is usual for the Speaker to present six copies to the Governor as a matter of convenience.

The Bill is still open to Amendment subsequent to presentation, and prior to receiving the Royal assent.

Further Amendment by Governor.

The Governor may return the Bill to the House with a Message recommending Amendments for consideration.

Procedure on Governor's Amendments.

It is provided by Standing Order 339 that the procedure shall be the same as that in respect to Amendments by the Council, which are ordered to be printed and a day fixed for their consideration

Violation of rule.

But this rule has not always been strictly observed, instances occurring in the Journals where the Message and Amendments have been considered at once (V. and

P., 1860, p. 295; V. & P., 1868-9, p. 257; V. & P., 1880, p. 293; V. & P., 1882, p. 307): sometimes at a later period of the same day as that on which received (V. & P., 1861, pp. 323, 327): while on other occasions the more regular procedure of ordering the Message to be printed and fixing a day for the consideration has been adopted (V. & P., 1860, pp. 284, 287; V. and P. 1864, p. 195; V. & P., 1869, pp. 309, 333).

Scope of Amendments.

The Amendments may be of every kind which may be made in a Bill, *ex. gr.*, striking out words and substituting others (V. & P., 1868-9, p. 257): inserting or adding words (V. & P., 1860, p. 287; V. & P., 1861, p. 323; V. & P., 1864, p. 195): omitting clauses and substituting others in lieu (V. & P., 1861, p. 324; V. & P., 1864, p. 195): provisos (V. & P., 1860, p. 283; V. & P., 1864, p. 195): new schedules (V. & P., 1861, p. 323).

Reasons for Amendment.

Sometimes, though rarely, the Message assigns reasons for the Amendment recommended to the House.

Instance—Bonds Bill, 1861.

Thus, in 1861, the Governor returned to the House the South Australian Bonds Bill, with a view to clause 8 being omitted, and the consequent clause numbered in accordance with such Amendment. The clause in question fixed a date for the Act to come into operation, which date had elapsed some days before the Message. It may be of interest to give the Message in full:—

"The Governor-in-Chief returns herewith a Bill re-
"ceived by him from the Speaker, intituled 'An Act
"'to authorise the raising of Thirty-five Thousand
"'Pounds by the sale of Government Bonds, and to
"'provide for the expenditure of the same,' and which
"Bill was inadvertently sent down to the Assembly*
"with a clause, No. 8, wherein was a blank for the
"date on which the Act was to come into operation.
"The date now fixed by that clause is the 21st of No-
"vember, a day already elapsed.

* Note.—This Bill was not initiated in the House, but sent down by the Governor.

"The Governor-in-Chief, however, feels that in "future he cannot consistently with his duty, unless "under very peculiar circumstances, give the Queen's "assent to Acts wherein a date is fixed for the com- "mencement of a Bill which may render it probable "that the Queen's assent may be given to it by the "Governor at a later period than such date; a circum- "stance which has already so frequently occurred, that "the Statute Book of the Colony is already greatly "disfigured thereby.

"The Governor would also point out that, when the "Legislature fixes a date for the commencement of an "Act, such legislation directly interferes with a very "important prerogative of the Governor, viz., that of "reserving any Bill for the signification of Her "Majesty's pleasure.

"It is observable, likewise, that all such legislation "is unnecessary, as there is no point of Colonial law "or practice more clearly laid down by constitutional "writers on Colonial law—more definitely pointed out "by Her Majesty's regulations, or more firmly estab- "lished by the universal practice of the Colonies— "than that all Colonial Acts come into operation from "the date of the Crown's assent being given thereto "by the Crown's representative, or, in the case of "reserved Bills, from the date of the publication in "the Colony of the Crown's assent to such Acts. No "person sufficiently informed on such subjects can "possibly maintain a contrary opinion; and therefore "the Governor returns the enclosed Act that clause 8 "may be omitted, and that the clause which is now "clause 9 may be numbered as clause 8. The Gover- "nor also hopes that the House will assist him in "preventing in future the insertion of such anomalous "clauses in Acts of the Colony.

"RICHARD GRAVES MACDONNELL,
"Governor.

"Government House, Adelaide, November, 1861."
(V. & P., 1861, pp. 316, 317.)

Again, on November 29th, the Governor returned the Real Property Act Amendment Bill for Amendment, in a Message in which reasons were assigned *(ibid.*, p. 327).

Procedure in Committee on Governor's Amendments.

When the House goes into Committee to consider the Message from the Governor, recommending Amendments in a Bill, a Question is put "That the "Amendments be agreed to."

Report.

If this passes in the affirmative, a report is made to the House, and on the House agreeing to such Report it is ordered "That a Message be sent to the Legis- "lative Council transmitting a copy of the Bill inti- "tuled_____as presented by the Speaker to the "Governor, for his assent, together with a copy of the "Message from the Governor suggesting certain "Amendments, and notifying that, the House having "agreed to the Amendments, desires the concurrence "of the Legislative Council therein."

Message sent to Council.

Amendments may be disagreed with.

It is, however, equally competent for the House to disagree to any of the Amendments. Thus, on February 9th, 1870, the House disagreed to Amendment No. 1 and agreed to Amendments Nos. 2 and 3 in the Licensed Victuallers Bill (V. & P., 1869-70, p. 339), and on October 28th, 1880, the House agreed to Amendment No. 1 and disagreed to Amendment No. 2 in the Local Courts Jurisdiction Bill (V. & P., 1880, pp. 293, 294).

Message to Council.

In such cases the Message to the Council records the action of the House in disagreeing as well as agreeing.

Bill altered to conform to Amendments.

It is competent for the House to make any alteration in the Bill rendered necessary by such Amendment.

Bill returned by Council with further Amendments —Procedure.

If the Council return the Bill agreeing to the Governor's Amendments with Amendment, the Message and Amendments of the Council are ordered to be printed and considered in Committee of the Whole House on a day fixed, when it is competent to agree to them with or without Amendments (V. & P., 1864, pp. 287, 297, Customs Amendment Bill).

This is the only precedent in the Journals. It is noteworthy that the Standing Orders make no provision for such a case.

Consideration of such Amendment received through the Council.

Standing Order 341 enacts—Amendments by the Governor in Bills originated in the Legislative Council which shall be agreed to by the Legislative Council and forwarded for the concurrence of the Assembly, shall be proceeded with in the same manner as Amendments made by the Council on the Assembly's Amendments on Bills first received from the Council.

Precedents.

Precedents of such Bills will be found in the Journals of 1862, in the Municipal Corporations Amendment Bill (V. & P., 1862, p. 350); and in 1877, in the Glenelg and Brighton Tramways Bill (V. & P., 1877, p. 371).

Procedure in cases cited.

In the former case the Standing Orders were rightly suspended to enable the Message to be at once considered. In the latter the House went into Committee on Motion of the Member in charge of the Bill without previous notice and without suspension of the Standing Orders *(ibid.*, p. 374).

Further Amendment by Governor.

Sometimes after both Houses have agreed to the Governor's Amendments, the Governor returns the Bill a second time with further Amendments. The procedure is the same as in the case of the first Message with Amendments (cf. Customs Amendment Bill, 1864; V. & P., 1864, p. 273).

Assent by the Governor.

Standing Order 342 provides—Every public Bill which shall have passed both Houses, and received Her Majesty's assent, or been reserved for the signification of Her Majesty's pleasure thereon, shall be numbered at the top by the proper officer in the order in which it shall have received such assent, or been so reserved, and shall have the date of such assent or reservation, following the words, "Assented to" or "Reserved" (as the case may be), within parentheses, immediately after the title; and one copy of such Act, bearing the signature of the Governor, shall be handed to the Clerk of the Assembly, for deposit amongst the records of the House.

Acts to be numbered consecutively.

The following Joint Standing Order provides for the numbering of Acts of Parliament:—Every public Act of the Legislature, commencing No. 1 from the first day of January, 1875, shall be numbered in Arabic figures, and in regular arithmetical series in the order in which the same shall be assented to by His Excellency the Governor, or reserved by him for the signification of Her Majesty's pleasure thereon.

Governor's assent, when given.

Bills are assented to by the Governor, in the presence of both Houses, at the end of Session, and occasionally during Session.

Procedure—House summoned to attend the Governor.

In either case, the House is informed by a messenger from His Excellency, who is duly announced by the Sergeant-at-Arms at the Bar, that "His Excellency "desires the attendance of this Honorable House in "the Legislative Council Chamber forthwith"; whereupon the Speaker, attended by the Clerks of the House, and Members repair to the Council.

Assent during Session reported by Speaker.

If the Governor comes down during Session, the Speaker, on returning to the House, reports to the House the Bills which have been assented to.

Certain Bills presented by Speaker.

The Speaker, on behalf of the House, presents at the Bar of the Council all Money Bills, *ex. gr.*, Supply Bills, the Appropriation Bill, Loan Bills, and others creating, involving, or appropriating Revenue.

Assent or reservation notified by Message.

The Governor's assent to Bills, or the reservation for the signification of Her Majesty's pleasure thereon, is occasionally communicated to the House by Message.

Gazette proclamation of Queen's assent.

When Bills have been reserved, and the Queen's assent thereto is subsequently notified by proclamation in the *Gazette*, the Speaker, on the first opportunity arising thereafter, draws the attention of the House to the proclamation.

Regulations for Her Majesty's Colonial Service on the powers and duties of Governors in respect of Bills.

It may be of interest to quote the following from the Rules and Regulations for Her Majesty's Colonial Service:—

"32. He" (the Governor, *scil.*) "has the power of "granting or withholding his assent to any Bills which "may be passed by the Legislative bodies.

"33. But he is required, in various cases, by his "instructions, to reserve such Bills for the Royal assent, "or to assent to them only, with a clause suspending "their operation until they are confirmed by the Crown. "These cases are not defined alike in all instructions; "but they comprise, generally speaking, matters touch- "ing the Currency, the Army and Navy, Differential "Duties, the effect of Foreign Treaties, and any "enactments of an unusual nature touching the pre- "rogative or the rights of Her Majesty's subjects not "resident in the Colony" (Colonial Office List, 1885, p. 255).

General Instructions to Governor of South Australia.

The General Instructions to the Governor of the Colony of South Australia also provide in respect of Bills—

Different subjects not to be mixed in the same Law.

"IX. In the passing of all Laws each different "matter is to be provided for by a different Law, with- "out intermixing in one and the same Law such things "as have no proper relation to each other; and no "clause is to be inserted in or annexed to any Law, "which shall be foreign to what the title of such Law "imports; and no perpetual clause is to be part of any "temporary Law.

No clause to be introduced foreign to what the title imports.

Temporary Laws.

Description of Bills not to be assented to.

"X. Our said Governor is not to assent in Our name "to any Bill of any one of the classes hereafter speci- "fied, that is to say—

"1. Any Bill for the divorce of persons joined together "in holy matrimony:

"2. Any Bill whereby any grant of land or money, "or other donation or gratuity, may be made "to himself:

"3. Any Bill whereby any paper or other currency "may be made a legal tender, except the coin "of the realm, or other gold or silver coin:

"4. Any Bill imposing differential duties, other than "as allowed by the Australian Colonies Duties "Act, 1873:

"5. Any Bill the provisions of which shall appear "inconsistent with obligations imposed upon "Us by Treaty:

"6. Any Bill interfering with the discipline or con- "trol of Our forces in Our said Colony by "land and sea:

"7. Any Bill of any extraordinary nature and impor- "tance whereby Our prerogative, or the rights "and property of Our subjects not residing in

"Our said Colony, or the trade and shipping
"of the United Kingdom and its dependencies,
"may be prejudiced:

"8. Any Bill containing provisions to which Our
"assent has been once refused, or which have
"been disallowed by Us:

"Unless such Bill shall contain a clause suspending the "operations of such Bill until the signification in Our "said Colony of Our pleasure thereupon, or unless Our "said Governor shall have satisfied himself that an "urgent necessity exists requiring that such Bill be "brought into immediate operation, in which case he is "authorised to assent in Our name to such Bill, unless "the same shall be repugnant to the law of England, "or inconsistent with any obligations imposed upon Us "by Treaty; but he is to transmit to Us, by the earliest "opportunity, the Bill so assented to, together with his "reasons for assenting thereto.

Laws sent home to have marginal abstracts.

"XI. Our said Governor is to take care that all Laws "assented to by him in Our name, or reserved for the "signification of Our pleasure thereon, shall, when "transmitted by him, be fairly abstracted in the mar-"gins, and be accompanied in such cases, as may seem "to him necessary, with such explanatory observations "as may be required to exhibit the reasons and occa-"sions for proposing such Laws; and he shall also

Journals and Minutes.

"transmit fair copies of the Journals and Minutes of "the Proceedings of the Legislative Bodies of Our said "Colony, which he is to require from the Clerks, or "other proper officers in that behalf of the said Legis-"lative Bodies" (P.P. No. 109, 1877).

Constitution Bills reserved.

The Constitution Act provides that every Act to repeal, alter, or vary all or any of the provisions thereof, and to substitute others in lieu thereof, shall be reserved for the signification of Her Majesty's pleasure thereon (clause 34).

Instance of omission to present a Bill for assent.

In the Session of 1865-6, the Strathalbyn and Middleton Tramway Bill passed both Houses, but was omitted to be presented for the Governor's assent. In the following Session, the Bill was again introduced, and passed through all its stages in the house in one day; was carried through the other House with almost equal expedition; returned with Amendments, which were agreed to; and assented to by the Governor (V. & P., 1886-7, pp. 22, 26, 28).

Same Question—Rule applicable to Bills.

N.B.—The rule as to the same Question applies to Bills *(vide ante*, pp. 148-152).

Prorogation to revive a Bill.

If the second or third reading of a Bill, sent from one House to another, be deferred for three or six months, or if it be rejected, it cannot be revived in the same Session. If the Bill is deemed by the House of such pressing importance, as to require its passing after having been so disposed of, the only course open is to prorogue Parliament for however short a period, in order to its being summoned to meet again almost immediately, with a view to the revival of the Bill.

Instance—Stamps Bill, 1875.

In 1875, the House passed a Stamps Bill, which was lost in the Legislative Council, by an Amendment to the Question for the second reading of the Bill, ordering the Bill to be read a second time "this day six months" (Minutes, Legislative Council, 1875, p. 74).

Parliament was prorogued on October 15th, and summoned to meet again on November 10th, when the Bill was again introduced.

If a Motion or a Bill be rejected, a substantially identical one not entertained.

If a Motion for a Bill be rejected, a subsequent Motion, though differing in form and words, for another Bill, if the object is substantially the same, will not be entertained. So, if the House reject a Bill, it will not receive another Bill, though of a different title, if the same in its object and provisions.

But, if a resolution impugning an Act generally be negatived, it would still be competent to move for a Bill to repeal a single clause of the said Act.

Part of a Bill omitted, separate Bill to revive same.

If part of a Bill is omitted by the other House, and the House agrees to such an Amendment in their Bill, the rule as to the same Question would not prevent the House renewing in the same Session, in the form of a separate Bill, the part omitted.

Bill introduced in conformity with Amendments deferred by other House.

If the Council, out of regard to the Privileges of the House, were to defer the consideration of the Amendments made by the Committee on a Bill to a lengthened period *(ex. gr.*, three or six months), and if such Amendments were otherwise acceptable to the House, the House could order a Committee of Search, and, on receiving their Report, stating the position of the Bill in the Council, could order another Bill of the same title with provisions conforming to the Amendments of the Council.

Same practice where Privileges involved.

So, if a Bill be returned with Amendments which the House could not, consistently with its Privileges, entertain, the House could order the Bill to be laid aside and another to be brought in.

Or, if a Bill be sent to the House, which trenches upon their Privileges, the House could lay the Bill aside and order another precisely similar to be brought in, and send the same to the other House exactly as if the Bill had originated in the House.

The rule of same Question not applicable to different stages of a Bill.

But the rule of the same Question does not apply to Amendments on Bills in different stages. It is laid down by Hatsell—"That in every stage of a Bill every part "of a Bill is open to Amendment, either for insertion or "omission, whether the same Amendment has been in "a former stage accepted or rejected" *(vide ante*, p. 150).

Amendments by Council involving rejection or laying Bill aside.

It may happen that a Bill sent from the House to the Council is so amended in that House, that there is no alternative but for the House to object to the Amendments or to lay aside the Bill.

Instance—Electoral Districts Bill, 1879.

Thus, in 1879, the Council made certain Amendments in the Electoral Districts Bill, which Amendments effected an alteration in the constitution of the Legislative Council. Mr. Speaker ruled it was not competent for the Council to make such Amendments, as no Bill for that purpose had passed in its second and third readings by an absolute majority of the House of Assembly; and according to the 34th clause of the Constitution Act, it would not be lawful for the Speaker to present the Bill with the Amendments of the Legislative Council to His Excellency for Her Majesty's Assent. The Amendments were accordingly disagreed to, and the Bill returned to the Council with a Message and reasons, in which House the Bill was dropped (V. and P., 1879, p. 302; *Hansard*, 1879, pp. 1635-1643).

Electoral Districts Bill, 1880.

In the following Session, 1880, the Electoral Districts Bill was returned by the Council with Amendments similar to those made in the preceding Session. The Deputy Speaker gave the same ruling as was given by Mr. Speaker on the former occasion, and added that, if the House wished to pass those Amendments, the course was clear. The Bill must be laid aside and a new one brought in (V. & P., 1880, p. 82). The Deputy Speaker further ruled that it was not competent for the House to go into Committee to consider such Amendments *(Hansard*, 1880, p. 386).

Identical Bills.

It is contrary to the Law of Parliament to have two Bills before it in identical terms, and one of two such Bills must be withdrawn (Brand's Decisions, 1872-1880, p. 20).

Second Bill introduced with intent to discharge first.

But it is quite regular for an hon. Member to introduce a second Bill upon the same subject as a Bill which he has already before the House, with the intention of moving the discharge of the Order on the first Bill, when leave has been given for the introduction of the second Bill (Brand's Decisions, 1881, p. 7).

Two Bills on same subject.

It is a matter for the House to determine whether it will have two Bills before it on the same subject (Brand's Decisions, 1882, pp. 16, 17).

Instance of Totalizator Bills, 1882.

In the Session of 1882, the Notice Paper for Wednesday, October 18th, had amongst the Orders of the Day two Bills of the same matter, viz., Totalizator Bill (No. 84), second reading, and Totalizator Amendment Bill (No. 88), second reading. The ruling given by Mr. Speaker will best explain the position of the two Bills, and the course adopted in respect thereof.

Totalizator bill.

On the Order of the Day for the second reading of the Totalizator Bill being read, Mr. Gilbert moved—That this Bill be now read a second time.

Ruling of Mr. Speaker (Hon. R. D. Ross).

The Speaker read to the House the following:—

"On Tuesday, October 10th, 1882, Mr. Bean gave notice to move, on Wednesday, October 11th—That he have leave to introduce "A Bill for an Act to amend Act "No. 161 of 1879, intituled 'An Act to remedy some of "the Evils arising from Betting at Races.'"

In the course of the same sitting, Message No. 34 from the Legislative Council was received and read—

> Mr. Speaker—The Legislative Council has passed the Bill sent herewith, intituled "An Act to repeal Act "No. 161 of 1879, intituled 'An Act to remedy "'some of the Evils arising from Betting at "'Races,'" to which it desires the concurrence of the House of Assembly.

The Bill was then read a first time and ordered to be printed, and the second reading fixed for Wednesday, October 18th.

On Wednesday, October 11th, Mr. Bean, pursuant to Notice, moved—That he have leave to introduce "A "Bill for an Act to amend Act No. 161 of 1879, intituled "'An Act to remedy some of the Evils arising from "'Betting at Races,'" and leave was granted.

On Thursday, October 12th, Mr. Bean, pursuant to leave, brought in the said Bill, which was read a first time and ordered to be printed, and the second reading fixed for Wednesday, October 18th.

Accordingly the next issue of the Notice Paper

presented two Bills dealing with the same subject, though in different ways, set down for second reading on the same day, precedence being properly given to the Totalizator Bill, which was read a first time on the 10th October.

Two Questions arose out of the foregoing proceedings—

(1) Is the presence of two such Bills concurrently on the Notice Paper sanctioned by the rule and usage of Parliament?

(2) Can a Bill whose object is simply to repeal an existing Act be amended in Committee, so that it amends, instead of repealing, the existing Act?

There can be no Question that, when a Bill is pending on a given subject, a Bill dealing with the same subject, though in a different way, cannot be discussed concurrently, and ought not to be introduced until the Bill pending has been disposed of finally.

But should the one Bill be rejected, the other can then be introduced and proceeded with on the ancient rule and usage of Parliament, that—"If a Bill begun in one "of the Houses, and there allowed and passed, be disliked "and refused in the other, a new Bill of the same matter "may be drawn and begun again in that House where-"unto it was sent."

As to the second issue, viz., the competence of a Committee of the Whole House to alter the provisions of a Bill to repeal an Act into a Bill to amend an Act, there is an absolute concurrence of authorities that an Instruction from the House to the Committee on the Bill invests it with power to make Amendments and insert additional matter, though foreign to the Bill, and not within the scope of its title.

The Standing Order of the House of Commons of July 19th, 1854, runs as follows:—

> Amendments in Committee (July 19th, 1854).—That it be an Instruction to all Committees of the Whole House to which Bills may be committed, that they have power to make such Amendments therein as they shall think fit, provided they be relevant to the subject-matter of the Bill; but that, if any such Amendment shall not be within the title of the Bill, they do amend the title accordingly, and do report the same specially to the House.

Which Standing Order has been incorporated into the

Standing Orders of the House of Assembly *(vide* Standing Order 289).

With respect to Bills, the ancient and uniform practice is clear:—"That wherever any clause or words are in "a Bill, though they should have even been inserted as "an Amendment by the House, yet, upon any other "subsequent stage of the Bill, the sense of the House "may be again taken upon these words, and they may be "left out, because every stage of a Bill submits the whole "and every part of it to the opinion of the House; and "this being the known Order of the House, there can be "no surprise upon any person whatever."

It seems therefore clear, according to the usage and practice of Parliament, that the Bill from the Legislative Council can be so amended in Committee as to accomplish all that is sought by the second Bill, which therefore, for the present at all events, should be withdrawn until the other Bill is disposed of" (V. & P., 1882, pp. 266, 267).

The Bill was then read a second time, and amended in Committee so as to effect the objects of the later Bill, and in such a shape finally passed both Houses.

Private Members and Bills appropriating Revenue.

It is not competent for a private Member to introduce a Bill providing for an appropriation of the Revenue. Such a measure should be initiated by the Government.

Instance—Port Augusta Railway Bill, 1869-70.

Upon these Grounds, in the Session of 1869-70, the Port Augusta Railway Bill, providing for the construction of a railway on the guarantee principle, introduced by a private Member, was ordered to be withdrawn (V. and P., 1869-70, pp. 118, 119).

Revival of temporary Act.

A temporary Act, which has expired, may be revived by the introduction and passing of a Bill to revive such Act (Goolwa Canal Bill, 1881; V. & P., 1881, p. 58).

Act again dealt with in same Session.

An Act may be altered, amended, or repealed in the same Session in which it has been passed (cf. Language of Acts Act, No. 9, 1872).

INSTRUCTIONS TO COMMITTEES.

Committees bound by the Order of Reference.

A Committee of the Whole House, or a Select Committee, or any Committee, in whatever way appointed by the House, is strictly bound by the Order of Reference, and can only consider such matters as the House has committed to it.

Object of an Instruction.

If it is desired to enlarge the Order of Reference and to commit other matters to it, an Instruction must be given by the House to empower the Committee to entertain it (cf. May, Practice of Parliament, p. 431).

Notice of Instruction.

Notice should be given of an Instruction.

Nature and limits of Instructions.

No Instruction can be given to a Committee to do that which they have already the power to do.

Nor can an Instruction be given to a Committee to deal with a Question beyond the limits of the Bill.

Nor may an Instruction be mandatory in form, the intentions of an Instruction being to give a Committee power to do a certain thing if they think proper, not to command them to do it.

Nor may an Instruction authoritatively direct the adoption of a clause when such clause may be moved in Committee.

Nor is it competent to move an Instruction to a Committee, giving conditional power.

Nor is it necessary for resolutions of a Committee of the Whole House, agreed to and reported, to be embodied in an Instruction to a Committee to be inserted in the Bill.

Nor may an Instruction be of such a character as, in effect, to pass over preliminary stages which the House has thought essential in regard to certain matters (cf. Denison's Decisions, pp. 116, 117).

An Instruction is given to the Committee to confer on it that power which, without the Instruction, it would not have *(ibid.*, p. 117).

When Instructions should be moved.

The time for moving an Instruction is prescribed by Standing Order 406—An Instruction should be moved after the Order of the Day for going into Committee has been read, and not as an Amendment to the Question "That the Speaker do now leave the Chair."

Instructions are substantive Motions and not Amendments.

It is, in fact, a substantive Motion, to be moved before the first sitting of the Committee, having precedence of the Motion that the Speaker do now leave the Chair, and of any Amendment to that Motion of which Notice has been given.

Reasons against moving Instructions as Amendments.

It should not be moved as an Amendment to the Question for the Speaker leaving the Chair, because, if successful, it would supersede the very Committee which it is the purpose of the Motion to instruct.

Standing Order not prohibitory.

The Standing Order quoted is not absolutely prohibitory of an Instruction being moved as an Amendment, though the objection thereto, as pointed out, is obvious (cf. Denison's Decisions, pp. 118, 119).

Instruction cannot be moved on Committee resuming.

Where progress has been reported, and the Committee ordered to sit again on a particular day, an Instruction cannot be moved on the House again going into Committee, as the Speaker leaves the Chair without putting any Question, and therefore no opportunity is offered for moving an Instruction.

Progress not applicable to Supply and Ways and Means.

The principle of progress does not apply to the Committees of Supply and of Ways and Means.

Instructions founded upon resolutions of Committees of the Whole, when to be moved.

An Instruction, if founded upon a resolution of a Committee of the Whole House, may be moved subsequently to the first sitting of the Committee. But in this case the proper course is, on the Report of the Committee of the Whole House being brought up and agreed to, to move that it be an Instruction to the Committee, which is in progress, to carry out the resolution of the Committee of the Whole House. This is done as a separate Motion, apart from the Order of the Day for the sittings of the Committee to be resumed (cf. Commons Journals, vol. 105, p. 634).

The Journals of the House record two precedents of Instructions to Committees on Bills where the procedure was irregular. Precedents of irregular procedure on Instructions.

Thus—

On October 1st, 1867, on the Order of the Day being read—Waste Lands Act Amendment Bill, in Committee (progress having been reported previously) —Motion was made "That it be an Instruction to the "Committee of the Whole House on this Bill to con- "sider and act upon the resolution of the Committee "of the Whole House" (V. & P., 1867, p. 182). Waste Lands Bill, 1867.

> In this case the Committee of the Whole House had come to the resolution which had been reported and agreed to by the House shortly before.

On December 10th, 1869, a still more irregular practice is recorded. On the Order of the Day—Electoral Bill, in Committee—being read, Motion was made, neither upon Notice nor on a resolution of a Committee, "That it be an Instruction of the Com- "mittee of the Whole House to divide the Electoral "Bill into two parts if they think fit" (V. & P., 1869-70, p. 242). Electoral Bill, 1869.

There is a Standard Instruction to all Committees on Bills. Standard Instruction to Bill Committees.

It is an Instruction to all Committees of the Whole House to whom Bills may be committed, that they have power to make such Amendments therein as they shall think fit, provided they be relevant to the subject-matter of the Bill; but, if any such Amendments shall not be within the title of the Bill, they shall amend the title accordingly, and report the same specially to the House.—Standing Order 404. How Committees are to amend Bills.

An Instruction may be given to make provision for any matters not relevant to the subject-matter of the Bill, so as to enable the Committee on the Bill to introduce Amendments, which otherwise would not be competent, on the grounds of irrelevance. Instruction enabling Committee to make Amendments in Bill, not otherwise competent.

But no Instruction is regular which is of such a nature that it evades the rules of the House, and Instruction cannot evade rules of House.

would dispense with preliminary stages which the House deems necessary (Denison's Decisions, p. 122; May, Practice of Parliament, p. 555).

Number of Instructions unlimited.

There is no limit to the number of Instructions which may be moved in succession.

Instructions may be amended.

An Instruction is open to Amendments, but the Amendment must be such that, if agreed to, the Question would retain the form, and the matter properly form the subject, of an Instruction.

Limit to Amendments to Instructions.

It is irregular, under cover of an Amendment to an Instruction, to attempt to move a resolution which could not be otherwise interposed between reading the Order of the Day and the Question for the Speaker leaving the Chair (May, Practice of Parliament, p. 557).

Instructions to Select Committees.

Instructions are given to Select Committees to extend their inquiries beyond the order of reference; to restrict their inquiries, prescribing the limits of their powers; to direct their inquiries, their course of proceeding, and enjoin them to make a special Report upon certain matters.

Time for moving.

Such Instructions may be moved, on Notice, at any time subsequent to the appointment of the Select Committee, and before they have reported (V. & P., 1862, p. 110; V. & P., 1866-7, p. 194; V. & P., 1871, p. 192; V. & P., 1877, p. 291; V. & P., 1881, p. 104).

PRIVATE BILLS.

Private Bill defined.

A Private Bill is one which is for the interest of an individual, a Public Company, or Corporation, and which is not a measure of public policy in which the whole community is interested.

Practice in respect of Private Bills.

Private Bills pass through the same stages as Public Bills, but, in addition, are subject to other practice and procedure laid down in Special Standing Orders regulating the procedure on Private Bills.

Petition by the suitors to the Bill.

Private Bills are brought in upon Petition signed by the parties who are suitors to the Bill, and the payment of fees by the promoters is an essential condition to their progress.

Guarantee of expenses.

The Member in charge of the Bill gives the Clerk of the House a guarantee that he will be responsible for all expenses incurred in connection with the passage of the Bill, in addition to the fees.

Standing Order 53 of the Standing Orders on Private Bills enacts—

> Every Private Bill sent from the Legislative Council, if accompanied by a printed copy of the Report and Proceedings of the Select Committee of that House to which it shall have been referred, shall be dealt with in the same manner as a Public Bill, and shall not be referred to a Select Committee of the House of Assembly, unless on a Motion for such reference.

Private Bills received first from Legislative Council.

Private Bills as a rule introduced in Council.

It has become the established custom to introduce all Private Bills in the Legislative Council, thereby securing greater expedition in passing, owing to the pressure of business in that House being so much less than in the Assembly, and incurring less expense, as the table of fees in the Council is fixed at a much lower scale than that in the House of Assembly.

Fees on Private Bills brought from Council.

A Private Bill so received from the Council, at whose hands it has been thoroughly considered, is generally passed by the House with great expedition, and is only liable for a fee of £15 on each of the three readings.

Practice when introduced in House.

But, as it is still competent to introduce such Bills in the House, it will be necessary to refer briefly to the proceedings in the House when Private Bills are initiated there.

There are duties and responsibilities of an essentially technical and professional character imposed upon the promoters of Private Bills, but as these are undertaken by Parliamentary agents, they need not be described here.

Plans and book of reference to be lodged before Petition.

Thirty days, or more, before the presentation of the Petition, a plan and duplicate, with book of reference of any land or houses intended to be taken by the Bill, must be deposited for public inspection at the office of the Clerk of the House, who notes thereon the time at which they were lodged.

Petition lodged before Presentation.

Seven days before the presentation of the Petition to the House, the Petition, with a declaration signed by the agent, and a copy of the Bill, must be lodged with the Clerk for public inspection.

What other documents to be deposited with Clerk of Assembly.

> Seven days before the Bill is read a first time, there shall also be deposited in the office of the Clerk of Assembly all estimates, declarations, and lists of owners, lessees, and occupiers, which are required by the Standing Orders of this House.—Standing Order 15 (Private Bills).

Copies of estimates of expenditure and estimate of rates and dues to be lodged with Clerk of Assembly.

> Seven days before the Bill is read a first time, copies of the estimate of expenditure of the undertaking, and where a declaration alone, or declaration and estimate of the probable amount of rates and dues are required, copies of such declaration, or declaration and estimate, shall be delivered at the office of the Clerk of Assembly, and printed at the expense of the promoters of the Bill for the use of the Members of the House, and for the use of any agent who may apply for the same.—Standing Order 16.

Estimate and cautionary deposit.

An estimate of the undertaking must be made, and a cautionary sum of not less than five per cent. thereof

deposited in the Treasury at least seven days before the first reading.

The Clerk must certify that the Standing Orders have been complied with. Clerk's certificate.

If a Bill be unopposed, the Chairman of Committees may report to the House special circumstances as a reason for treating the Bill as an opposed Bill; and, in the case of a Railway Bill, shall inform the House whether the Bill contains the requirements of the Standing Orders, before the consideration of the Report. Chairman's Report on unopposed Bill, and certificate on Railway Bill.

The following Standing Orders refer to Petitions against a Bill:— Standing Orders.

34. No Petition against a Private Bill shall be taken into consideration which shall not distinctly specify the ground on which the petitioners object to any of the provisions thereof, and the petitioners shall be only heard on such grounds so stated; and if it shall appear to the Select Committee that such grounds are not specified with sufficient accuracy, the Committee may direct that there be given in to the Committee a more specific statement in writing, but limited to such grounds of objection so inaccurately specified. Petition against Bill not to be considered, except grounds of objection sufficiently specified.

35. No petitioners against any Private Bill shall be heard before the Committee on the Bill unless their Petition shall have been prepared and signed in strict conformity with the Rules and Orders of this House, and shall have been presented to this House, either previous to, or not later than, seven clear days after the Bill shall have been referred to the Select Committee, except where the petitioners shall complain of any matter which may have arisen during the progress of the Bill before the said Committee, or of any proposed additional provision, or of the Amendments proposed in such Committee to the Bill. Time of presenting petition against Bill.

36. It shall be competent to the Committee on any Private Bill to admit petitioners to be heard upon their Petitions against such Bill, on the ground of competition, if they shall think fit. Competition to be ground of *locus standi*.

37. Where a Bill is promoted by an incorporated company, shareholders of such company shall not be entitled to be heard before the Committee against such Bill, unless their interests, as affected thereby, shall be distinct from the general interests of such company. When shareholders to be heard.

When Railway Companies to be heard.

38. Where a Railway Bill contains provisions for taking or using any part of the lands, railway stations, or accommodations of another company, or for running engines and carriages upon or across the same, or for granting other facilities, such company shall be entitled to be heard upon their Petition against the preamble and clauses of such Bill.

Municipal authorities and inhabitants of town, &c., may be heard.

39. It shall be competent to the Committee on any Railway Bill to admit petitioners, being the authorities of any Corporation or District Council, or the inhabitants of any town or district alleged to be injuriously affected by a Bill, to be heard against such Bill, if they shall think fit.

Members interested not to vote.

Local or interested Members may take part in the proceedings of the Committee, but may not vote.

Petition, when to be presented.

The Petition for a Private Bill must be presented within seven days after the deposit in the Clerk's office, but if the House be not then sitting, then not later than fourteen clear days after the first sitting thereof, subsequent to such endorsement; and if the House shall not be sitting on the latest day on which any Petition ought to be presented, then the same shall be presented on the first day on which the House shall again sit (cf. Standing Order 44).

Form of Petition.

Every Petition for a Private Bill shall commence by setting forth that, within the three months previously to its presentation to the House, the public notice above required has been duly given of the general objects of, and the intention to apply for, such Bill, and shall conclude with a true statement of the general objects of the Bill, and a prayer for leave to introduce it; and the production of the numbers of the *Gazette* and newspaper, or newspapers, containing such notice, shall be sufficient proof of such notice.—Standing Order 45.

Bill to be printed and circulated, and expenses guaranteed.

When leave to bring in a Private Bill shall have been obtained, before it shall be read a first time it shall be printed in the same form as Public Bills, under the direction of the Clerk of the House, who shall provide a sufficient number of copies for the use of the House; and, prior to its being printed, the Member having charge of the Bill shall give the Clerk of the House a guarantee that he "Will be responsible to the "Clerk of the House of Assembly, on behalf of the "Colonial Government, for all expenses incurred in the "printing, passing, &c., of, and the Select Committee "on, the Bill" in question. —Standing Order 46.

When a Private Bill shall have been read a first time, it shall be forthwith referred to a Select Committee, who shall require proof of the allegations contained in the preamble.—Standing Order 47.

First reading, and reference to Select Committee.

Every Select Committee on a Private Bill may, in its discretion, hear counsel, if it be desired; and may also take such oral or other evidence as it may think requisite; and may decide on matters in issue between the persons conducting and opposing the Bill. After which, the Question shall be put from the Chair, "That "this preamble stand part of the Bill"; and if the Question pass in the negative, it shall be fatal to the Bill, and the Committee shall report accordingly; but if the Question pass in the affirmative, the several clauses of the Bill shall next be proceeded with, and the Amendments, if any, carefully noted for report to the House; care being taken that no clause be inserted, or Amendment made in the Bill, which shall be foreign to the import of the notice above required to be given by the party or parties applying for it.—Standing Order 48.

Duties of Select Committee.

When a Select Committee shall have reported in favor of a Private Bill, such Bill shall be proceeded with as in the case of Public Bills; notice being given for moving the second reading on a future day, subsequent to the distribution of the printed Report and Evidence, when they are ordered to be printed.—Standing Order 49.

Proceedings subsequent to report of Select Committee.

No Bill whereby any Crown lands or Crown property, or the lands or property of the Government of this Province may be affected, shall be considered in Committee of the Whole House until the Governor shall have informed the House by Message that, having been informed of the purport of the Bill, he gives his consent, as far as Her Majesty's interest or the interest of the Government is concerned, that the House may do therein as they may think fit.—Standing Order 50.

Restriction on second reading of Private Bills affecting Crown or Government property.

There shall not be less than seven clear days, nor more than fourteen, between the bringing up of the Report of the Select Committee on and the second reading of any Private Bill, except by special Order of the House.—Standing Order 51.

Time between first and second reading.

Between the Report and the consideration thereof, three clear days must intervene; and the Chairman certifies the compliance with the Standing Orders before Report is considered (cf. Standing Order 52).

Report, consideration of; Chairman's certificate.

Fees, how dealt with.

The fees received by the Clerk are for the Public Service of the Province, and are lodged by him in the Public Treasury (cf. Standing Order 56).

Fees on Private Bills received from Council.

The practice of requiring fees on the three readings of Private Bills coming from the Council is based upon a resolution of the House of November 19th, 1873, viz., "That, in the opinion of this House, a Private Bill "sent from the Legislative Council, accompanied by a "printed copy of the Report and Proceedings of the "Select Committee of the Council, to which it was "referred, may be treated as a Public Bill, and read a "first time; but, nevertheless, that the fees in respect "of the first, second, and third readings be paid" (V. and P., 1873, p. 207).

In the Session of 1876, a resolution was passed—"That, in the opinion of this House, all Bills that are "necessary for the forming or proper working of "friendly societies should be passed through Parliament "free of cost to the applicant" (V. & P., 1876, p. 48).

Certain Bills deemed public.

No. 270 of the Standing Orders on Public Business (cap. xxii., Public Bills—Initiation) ordains—Every Bill for the paving, lighting, draining, cleansing, or otherwise improving any city, town, or district, or for supplying the same with water, promoted by the municipal or district authorities of such city, town, or district, shall be deemed and taken to be a Public Bill.

Promoters of Hybrid Bills give the ordinary notices compulsory on Private Bills.

But it has been distinctly ruled that, the true meaning and intention of this Standing Order is simply to enable Corporations and District Councils to get their Bills without the payment of the fees to which Private Bills are liable. The *Gazette* Notices of the intention to apply for the Bill, and the Notices required to be given and served on all those whose lands or interests may be affected by the Bill, are still obligatory on the promoters of these Hybrid Bills; and if these formalities have not been complied with, the Bill cannot be proceeded with (cf. Speaker's ruling *re* Street Tramways Bill, V. & P., 1876, pp. 207, 208; and Corporations Act Amendment Bill, V. & P., 1877, p. 180).

DEBATE.

The rules for the conduct of Debate are set forth very fully in the Standing Orders of the House, Nos. 119-172. Standing Orders governing debate.

They relate to the attitude and orderly conduct of the Member addressing the Chair, and of the other Members at such time as a Member is in possession of the House, or the Speaker rises during a debate, or is putting a Question, the time and circumstances under which a Member may speak, and the latitude allowed or limitations imposed upon debate. Matters prescribed by Standing Orders.

It is a cardinal rule of Parliamentary procedure that no Member may speak except there is a Question before the House, unless he intends to conclude with a Motion or Amendment. No debate without Question.

Two exceptions to this rule are admitted— Exception—Questions to Ministers and Members.

(1) Putting Questions to Ministers or other Members on subjects connected with the business before the House:

(2) In explaining personal matters. Personal matters.

But in neither case may a debate ensue thereupon.

It will be most convenient to deal first with the Orders relating to the conduct of the Member addressing the House, and of the other Members when a Member is speaking, or the Speaker rises, or puts the Question.

A Member must rise in his place, uncovered, and speak standing. A Member speaks standing and uncovered.

In case of sickness or infirmity, at the suggestion of a Member, and by leave of the House, a Member may speak sitting and uncovered. Exception in case of sickness.

During a Division, with closed doors, if a Member desires to address Mr. Speaker on a Question of Order, arising out of the Division, he does so sitting and covered.

Speaker, not House, addressed.

He must address the Speaker, and not the House or any part of it.

Speech may not be read.

He may not read his speech, but may refresh his memory by notes, and may read extracts from documents.

No Member to interrupt except for special purposes.

No Member may interrupt the Member speaking unless—

(1) To request his words be taken down:

(2) To call attention to a point of Order:

(3) To call attention to the want of a Quorum.

When the Speaker rises.

Whenever the Speaker rises during a debate, any Member then speaking or offering to speak, shall sit down; and the House shall be silent, so that the Speaker may be heard without interruption.—Standing Order 142.

When the Speaker is putting a Question.

When the Speaker is putting a Question, no Member shall walk out of or across the Chamber; nor, when a Member is speaking, shall any Member hold discourse to interrupt him, except to Order, nor pass between him and the Chair.—Standing Order 143.

No noise or interruption allowed in debate.

No Member shall converse aloud or make any noise or disturbance whilst any Member is orderly debating, or whilst any Bill, Order, or other matter is being read or opened; and in case of such noise or disturbance being persisted in after the Speaker has called to order, the Speaker shall call upon the Member making such disturbance by name; and every such person will incur the displeasure and censure of the House.—Standing Order 156.

Time for debate to begin.

The proper time for debate is, after a Question has been proposed by the Speaker, and before it has been put from the Chair for voices to be given.

Member may speak until Question fully put.

A Member may, however, be heard after the Question has been put and voices given in the affirmative; but, if voices have been given in the negative, the Question has been fully put, and nothing remains but the vote (cf. May, Practice of Parliament, pp. 341, 342).

The Speaker calls upon Members to speak.

When two or more Members rise together to speak, the Speaker shall call upon the Member who, in his opinion, first rose in his place.—Standing Order 121.

A Motion may be made that any Member who has risen "Be now heard," or "Do now speak."—Standing Order 122. Motion that a Member be heard.

Thus, on August 24th, 1871, two Members rising together, Motion was made—"That the Treasurer be "now heard," and this Question passed in the affirmative (V. & P., 1871, p. 66). Instance of two Members rising.

On August 26th, 1863, a Member having moved a Motion and concluded his speech, the Question was put; but, before voices were taken, a Minister presented a Governor's Message relative to the subject of the Motion; whereupon, Motion was made and Question put and passed—"That the Member be now heard," the entry being—"Mr. R. I. Stow having had an "opportunity of again addressing the House, subse- "quent to the production of the above dispatch. Instance of Motion, that a Member (who had spoken) be now heard.

"Debate ensued.

"Question put and passed" (V. & P., 1863, pp. 207, 208).

NOTE.—The House has a similar power to prevent a Member speaking. It may negative a Motion, that a Member be heard, or may affirm a direct Motion—"That "a Member be not now heard." In the House of Commons, on June 14th, 1880, a Member persisting in charges against the French Ambassador, notwithstanding the remonstrances of Mr. Speaker, Mr. Gladstone moved —"That Mr. O'Donnell be not now heard." Mr. Speaker stated, that such a Motion had not been made for two hundred years, but there were instances in the seventeenth century *(Hansard* 292, pp. 1907, 1917).

When no Question is before the House, no Member shall be at liberty to speak, unless he intends to conclude by making a Motion, which, if any Member objects to, cannot be proceeded with; and the intended Motion shall first be handed to the Speaker.—Standing Order 123. When no Question is before the House.

It has already been shown that if a Member desires to call the attention of the House to an urgent matter of public importance, he puts himself in order by stating that he will conclude, by a Motion, that the House, at Motion for adjournment to debate on urgent matter.

its rising, adjourn to some time other than the regular hour, under the cover of which he brings the matter forward. This can only be done before the business of the day is called on. Only one such Motion can be made under such circumstances, and only the matter for which the Motion is brought on can be discussed *(vide ante*, pp. 79, 80).

Exceptions to rule.

The exceptions to the rule of no debate without Question—viz., Putting Questions to Ministers or Members, and Personal Explanation—have been already mentioned.

No matter of debate in Questions or answers.

But the putting of Questions, and the answering thereof, are alike most strictly guarded from anything which is debatable or could afford ground for debate.

Limitations in putting Questions, and in answering.

Thus, in putting a Question, only such facts may be stated as are necessary to explain the Question, and make it intelligible. A Member must confine himself to the narrowest limits. All argument is disallowed. Any Question, the reply to which would involve expressions of opinion, is irregular, as importing debatable matter. More latitude, however, is permitted to a Member asking a Question, if he states his personal honor is involved. So, too, in answering a Question, no discussion of the matter is allowed, no matters of argument can be entered into, no reference can be made to what has passed on a previous occasion; but considerable latitude is allowed to a Minister, in replying to a Question relative to matters under his Ministerial control. He may read a letter, or give full particulars. On the other hand, he may decline to answer a Question, which is of such a nature that the answer might involve argument or debate, or might be prejudicial to the public interest. Where individual character or honor is concerned, an individual explanation is allowed in addition to the answer (cf. Denison's Decisions, pp. 160-173; Brand's Decisions, 1872-1880, pp. 169-190).

Where character involved.

Personal explanation.

By the indulgence of the House a Member may explain matters of a personal nature, although there

be no Question before the House, but such matter may not be debated.—Standing Order 124.

All due latitude is allowed in making explanations. A Member may desire to explain matters personal to himself, or a statement which he has made, and which has been misunderstood or misrepresented; but such explanation should not conclude with a Motion, nor will a general debate be allowed thereon. The explanation must be confined to the matter or statement sought to be explained; and it is not competent to enter into subjects which may lead to discussion, or to reply to the remarks of anyone else. While a Member may not revive a former debate, nor read extracts from such debate, nor refer to it at great length, yet, for purposes of explanation, a Member may refer to a speech made in a past debate. Where, in personal explanations, it is necessary to refer to another Member, this should only be done when the Member referred to is present.

Latitude in explanations.

Limitation in explanation.

Reference to past debate.

Reference to another Member.

No general discussion can take place on a matter which is the subject of personal explanation, nor can a Member making explanation discuss another Member's remarks or argue thereon, nor can he enter into other matters or extend his observations beyond the particular Question.

General discussion not allowed.

When a matter of this character is brought before the House, and the Members concerned have made their explanations, it is irregular for other Members to interfere in the discussion, and prolong it.

Explanation confined to Members directly concerned.

The rule as to reference to "another place" is relaxed for purposes of personal explanation.

Reference to "another place."

A limitation is imposed upon the time when an explanation may be made.

Time for explanation.

A Member cannot interrupt another Member who is in possession of the House, but can make his explanation when the Member concludes. It is at the option of the Member addressing the Chair to give way or not to an immediate explanation. When a Member gives way, and accepts the explanation of

Explanation not to interrupt Member speaking.

Explanation accepted.

another Member, he cannot repeat the assertion which has been explained.

Standing Orders on debate.

It will be convenient to quote the Standing Orders which relate to the time and circumstances under which a Member may address the House :—

Member to speak to Question.

125. A Member may speak to any Question before the House, or upon a Question or Amendment to be proposed by himself, or upon a Question of Order arising out of the debate, or upon a Question of Privilege, but not otherwise.

Member not to speak twice.

126. No Member may speak twice to a Question before the House, except in explanation or reply, or in Committee of the Whole House.

Except to explain his words.

127. A Member who has spoken to a Question may again be heard, to explain himself in regard to some material part of his speech ; but shall not introduce any new matter, or interrupt any Member in possession of the Chair.

Or to reply to certain cases.

128. A reply shall be allowed to a Member who has made a substantive Motion to the House, or moved the second reading of a Bill, but not to any Member who has moved an Order of the Day (not being the second reading of a Bill), an Amendment, or Instruction to a Committee.

Reply at close of adjourned debate on a Motion.

129. A reply will also be allowed to the mover of a substantive Motion, although the debate thereon, by being adjourned, becomes an Order of the Day.

The Speaker to prevent a Member speaking twice.

130. The Speaker shall, without waiting for the interposition of the House, call to order any Member proceeding to speak a second time on the same Question, unless in explanation on some material point on which he has been misquoted or misunderstood, but not so as

Exceptions.

to interrupt a Member speaking: Provided that the mover of any Question, not hereinbefore excepted, shall be allowed the liberty of reply ; and provided also, that it shall be competent to a Member, when he seconds a Motion or Amendment before the House, without speaking to it, to address the House on the subject of such Motion or Amendment at any subsequent period of the debate.

Member only to speak once, except where right of reply.

It will be seen that the rules of debate in the House limit a Member to one speech on a Question, except where he seeks the indulgence of the House to explain matters, or where, as the mover of a substantive Motion, he has the right of reply.

Second speech under special circumstances.

Under certain special circumstances, by the desire or leave of the House, a Member may make a second speech *ex. gr.*, if he has not been sufficiently explicit, and the House desires to hear him further; or if he has only spoken upon an incidental issue and not upon the main Question; or to answer a Question put to him after he has spoken (cf. Denison's Decisions, pp. 94-96).

Member who has spoken cannot speak to or move Amendments.

A Member who has addressed the House on the main Question cannot move or second an Amendment, nor can a Member who has moved or seconded an Amendment speak upon the original Question after the Amendment has been withdrawn or otherwise disposed of. Nor is it competent for a Member who has spoken in the debate to move or second Motions for the adjournment of the debate or of the House, or that the House do now divide.

Order and Privilege, Members speaking to.

A Question of Order or Privilege suddenly arising is, however, one on which any Member may speak, although he has already taken part in the debate.

New Question.

The practice of the House of Assembly as to what constitutes a new Question upon which Members are at liberty to speak, as a separate Question proposed, differs materially from that of the House of Commons. In the latter, on a Motion—"That this House do now "adjourn;" "That the debate be adjourned;" or, "The previous Question;" or, an Amendment, proposed from the Chair, Members are at liberty to speak as on a new Question from the Chair.

Difference between practice of House of Assembly and House of Commons.

In the House of Assembly, the two former Motions are put at once from the Chair without debate, while no Member who has spoken on the original Motion can speak on any Amendment, or the "Previous Question," which is also of the nature of an Amendment.

Member can speak when new Question proposed.

But if the original Motion be amended, a new Question is thereby constituted and proposed from the Chair, and Members are entitled to speak thereon.

Adjournment of debate.

If it is not desired to bring a debate to a conclusion on the day on which it is initiated, it may be adjourned, on Motion duly made and seconded, to any other day, and on such day it may be again further adjourned, whether the debate be resumed then or not. Or it may be adjourned to a later hour of the same day.

Motion to adjourn negatived; effect on mover and seconder.

If the Motion to adjourn the debate be negatived, the mover or seconder may address the House at any time during the debate (cf. Standing Order 163).

Pre-audience on resumption of debate.

If the debate be adjourned, on the resumption of the debate the Member who moved the adjournment is entitled to pre-audience (cf. Standing Order 162).

Right waived.

The right is, however, frequently waived in favour of another Member.

Adjournment moved by Member speaking, to meet convenience.

When a Member is speaking, and there is no probability of his concluding before the half-past six o'clock adjournment, on a day when the House does not desire to sit later, he has been allowed, to meet the wishes and convenience of Members, without forfeiting his right of speech, to move the adjournment of the debate with the right of pre-audience on resumption.

Practice in Imperial Parliament—the quarter to six rule.

In the House of Commons, when a debate is adjourned under the quarter to six rule, while a Member is speaking, he can continue his speech on the resumption at a future day; the practice, thus, furnishing a precedent for the similar one adopted in the House of Assembly (cf. May, Practice of Parliament, p. 347).

Count out or adjournment of House; effect on debate.

A debate may be suddenly interrupted by the House being counted out, or by a successful Motion for the adjournment of the House.

Debate so interrupted restored.

Such a debate may be restored on Motion with Notice, and resumed at the point where it was interrupted.

Motion to divide.

A debate may be brought to a close by a Motion being carried—"That the House do now divide."

Motion lost.

In this case a vote must be at once taken on the Question. If the Motion to divide be lost, the debate is resumed where interrupted; and to avoid obstruction, no such Motion can again be made until an interval of a quarter of an hour after the preceding one.

Renewal of Motion.

In cases where the mover has a right of reply, the reply closes the debate. It is therefore customary for the mover to pause before replying, in order to be sure that no other Member desires to continue the debate. It frequently happens that when the mover rises to reply, another Member, who has not yet spoken, rises; in which case the mover gives way. Debate closed by reply.

The Standing Orders impose certain restraints on discussion, while there are others which are based upon the common law of Parliament. Restraints on discussion.

Standing Order 125, which has already been quoted, implies that relevancy must be observed in debate, and a later Order (140) enacts that—"No Member shall "digress from the subject matter of any Question under "discussion." Relevancy in discussion.

The House will sometimes warn a Member, when he clearly wanders from the subject, by cries of "Question;" but the Speaker is the final judge, and will not hesitate to caution a Member who introduces irrelevant matter. Member digressing cautioned.

Repetition of the same arguments is considered, equally with irrelevance, an infringement of the rules of debate. Repetition an infringement of rules of debate.

> It is an ancient and acknowledged rule of the Imperial Parliament that the Speaker may interrupt a Member offering superfluous and tedious remarks and may stay speeches impertinent to the Question. The recent Standing Order of November 27th, 1882, gives the Speaker power to order a Member guilty of continued irrelevance or tedious repetition to discontinue his speech (cf. May, Practice of Parliament, pp. 350, 351; and Denison's and Brand's Decisions, s.v., Debate—Irrelevance). Power of Speaker, in Imperial Parliament, over Member digressing.

There is no rule of debate more clearly established than that it is irregular to anticipate and raise a discussion upon any matter which is to come on at a later period. Greater latitude of debate is allowed on the Motion for going into Committee of Supply than on any other Question; but even in this case it is irregular to discuss the details of any Bill to be considered, or any Motion of which Notice has been given, or even Anticipating discussion.

votes standing for consideration in the Committee, or votes passed (Denison's Decisions, pp. 66-71, 197, 198; Brand's Decisions, 1872-1880, pp. 80-83, 206).

Standing Orders.

We shall now proceed to consider the specific restrictions imposed by Standing Orders.

Debates of same Session not to be alluded to.

131. No Member shall allude to any debate of the same Session, upon a Question or Bill not being then under discussion, except by the indulgence of the House for personal explanations.

Reference to past debates.

The object of this Order is self-evident. If reference to past debates were permitted, there would be no finality, debate would be interminable, and the rule as to the "same Question" would be a dead letter. The Standing Order excepts "personal explanation;" but, as this matter has already been referred to, it is unnecessary to add to the remark that this indulgence is strictly limited to where there has been misrepresentation, and no observations except those of correction are permitted.

Reference by way of illustration.

It has been ruled that a Member may refer to what has taken place in the House by way of illustration, if such reference does not specify the particular Member and occasion (Brand's Decisions, 1872-1880, pp. 115, 116).

Reference to speech in Committee.

A Member cannot refer to a speech made in a Committee of the Whole House (May, Practice of Parliament, p. 365).

Debate on Bills.

But the rule does not apply to the different stages of a Bill; and in the event of a Question which is the sequel of an Act passed, reference to the debate on the Act may be allowed (Brand's Decisions, 1872-1880, p. 116).

Reference where resolution rescinded.

In the case of a Motion to rescind a resolution of the House, reference to the debate upon the original resolution is permitted.

Special cases justifying reference.

Other cases may arise where it is impossible for the House to proceed with the business before it without reference to what has transpired in a previous debate.

Thus—

Instance, 1870.

On September 22nd, 1870, a Member who had called for a division, left the Chamber, although called on to remain and vote. The House, accordingly, made Order that he attend in his place on the morrow to explain his conduct, reported by Mr. Speaker.

On September 23rd, Motion was made and Question put and passed—"That the debate of yesterday may "be referred to in this debate," the Member in question appearing in his place in obedience to the Order of the House, and the matter being debated (V. & P., 1870-71, pp. 203, 204).

Reports of Speeches of same Session not to be read.

132. No Member shall read from a printed newspaper or book the report of any speech made in Parliament during the same Session.

Extracts referring to debates not to be read.

133. No Member shall read extracts from newspapers or other documents referring to debates in the House during the same Session.

Publication a breach of Privilege, theoretically.

These Standing Orders are based upon the old principle that the publication of debates is a breach of Privilege.

Reflections upon votes of the House.

134. No Member shall reflect upon any vote of the House, except for the purpose of moving that such vote be rescinded.

Reflection upon a vote passed.

A reflection upon a vote is, in addition to being discourteous to the House, a practical evasion of the rules, as to reference to past debates and "the same "Question;" as it would revive a discussion upon that which has been debated and settled.

Allusion to debate in the other House.

135. No Member shall allude to any debate in the other House of Parliament, or to any measure impending therein.

Object of rule.

The object of this Order is to prevent arguments and recriminations between two distinct bodies who are unable to reply to each other. The theory underlying the rule is that the debates of one House are not known to the other. The rule is occasionally evaded by an ambiguity of speech; and the strict observance of the rule has not been enforced where a

Evasion of rule and relaxation.

Minister of the Crown has made a declaration, particularly as affecting the House.

In Imperial Parliament; rule based on unwritten law.

In the House of Commons there is no Standing Order against reference to debates in the other House of Parliament; but the unwritten law of the House forbids the practice (Brand's Decisions, 1872-1880, p. 117).

House only cognizant of official matters in Council.

The House can take cognizance of what it learns officially as to *res gestæ* in the Council, such as Reports of Committees, and Votes and Proceedings of the other House, recorded and printed.

Irreverent use of the Queen's name.

136. No Member shall use Her Majesty's name irreverently in debate.

This Order needs no comment.

Governor's name not used to influence debate.

Although not provided for by Standing Order, it is irregular to use the name of the Governor to influence debate, as inconsistent with Constitutional principles, and calculated to interfere with the independence of the House *(vide ante*, p. 40). But the name of the Governor might be introduced, with the indulgence of the House, when a Minister is empowered to make a statement of facts on his part, not made to influence the judgment of the House (cf. May, Practice of Parliament, pp. 370, 371).

Offensive words against either House.

137. No Member shall use offensive words against either House of Parliament, or against any Statute, unless for the purpose of moving for its repeal.

Object of rule in respect of both Houses, or the House;

Any violation of the first part of this Order would tend to promote unfortunate relations between the Houses; and, in the case of words spoken in disrespect of the House to which the Member belongs, would tend to degrade it in the eyes of the people.

And in respect of statutes.

Similarly, words offensive against a Statute are offensive to the Parliament itself—calculated to bring it and the law into contempt. But when a Member is moving to repeal such Statute, he is justified in speaking in terms condemnatory of it.

No Member to be referred to by name.

138. No Member shall refer to any other Member by name, except for the purpose of distinguishing him from other Members returned for the same electoral district.

139. No Member shall use offensive or unbecoming words in reference to any Member of the House. Offensive words against a Member.

140. No Member shall digress from the subject matter of any Question under discussion; and all imputations of improper motives, and all personal reflections on Members shall be considered highly disorderly. Personal reflections on Members.

The object of the first of these Orders is to avoid personality. A Minister is referred to generally by the office he holds. Members of a previous Parliament may be referred to by name simply, having ceased to be Members of the House. Minister referred to by office; former Members by name.

Standing Orders 139 and 140 may be read together as broadly establishing the principle that no Member should ever indulge in language in reference to another Member calculated to wound his feelings, or give him cause to complain thereof. Any such expression is unparliamentary, calling for prompt interference, and immediate withdrawal. Objectionable language to a Member.

The following instances are given of expressions and language made use of in the House of Commons which have been ruled to be unparliamentary, irregular, and not permitted in debate, viz.:— Unparliamentary language, examples of, from Denison's and Brand's Decisions.

To charge a Member with an injurious intention in introducing a clause into a Bill:

To impute motives:

To make personal observations, reflecting on a Member's character:

To make use of expressions calculated to reflect upon a class:

To make use of strong terms, even though not addressed to a particular Member:

To say that a Member has been returned by the refuse of a large constituency:

To make a direct contradiction:

To attempt to throw ridicule on a Member by referring to him as "hon. and reverend":

To speak of the state of the House as corrupt:

To charge a Member with having been detected in the grossest practice of corruption:

To allege that a Member would give an offensive answer to a Question:

To assert that a Member's action has been dictated by "spite":

To speak of any Members as "not independent:"

To reflect on Members, however slightly and indirectly:

To say that an hon. Member "and those with him, "would shrink from nothing, however illegal and "unconstitutional":

To charge a Member with advocating an "unworthy "cause":

To express an opinion that it is not honorable for a Member to pursue a certain course:

To impute to Members that their allegiance is only conditional:

To imply that Members do not believe in a grievance they are talking about:

To charge a Member with "going about the country "telling palpable lies":

To imply that the action of a Member is opposed to his knowledge of a Question:

To charge a Member with insulting a Member:

To refer to a Bill as having had its passing "secured "by stealth":

To charge a Member with appealing to outrage and murder:

To omit the term honorable when referring to a Member:

To say that a Member has left undone what he should do as a man of honor:

To charge the Government with conduct approaching to trickery and unworthy proceedings:

To imply that a Member "says things without thinking":

To impute wilful obstruction:

To say that Members do not act according to their conscience, or that a Member was not actuated by the feelings of a gentleman:

To impute want of straightforwardness or courage:

To affirm that a Member's manner is usually insulting:

To impute that the House has lost its character as a deliberative Assembly:

To imply that bad language is used in the House by Members:

To impute disloyalty to any Member:

To speak of Members as "hypocritical lovers of liberty":

To speak of a Member's public acts as "of a most "damnable character":

To charge a Member with "a legal quibble, worthy "of the hon. Member from whom it proceeded":

To impute that "to gain political ends, some Members "would rejoice in the diplomatic failure of the "Government, and even in a military disaster":

To impute misconduct to Members and to state that "time is wasted in unseemly personal squabbles," such reflections implying neglect on the part of the Speaker or Chairman, who should check such conduct:

To say, in commenting upon a dispatch, "the thing "appears to have been done merely to see how "many falsehoods could be put in a dispatch," if such an observation is intended to apply to any Member of the House:

To apply to any body of Members language imputing insulting conduct on their part to foreign Governments:

To accuse a Member of "inciting to break the law":

To apply the terms "brutal majority" to any section of the House:

To say that Members "are on the side of atheism, "irreligion, and immorality":

To refer to a Member as "an infidel blasphemer, or "an offensive representative of atheism":

To characterise a speech as "contrary to the decencies "of society":

To say that a Member will "by persisting in his "present course, lose all claim to our respect as the "guardian of the rights of minorities":

To impute unworthy motives to Members or the Government collectively, as, *ex. gr.*, to charge the Government with doing anything on a pretence:

To imply that a Member has acted as a "traitor to "his sovereign":

To charge Members with being "under improper "influences," or with "rebellion":

To characterise a statement as "a deliberate untruth":

To use language of menace:

To assert "that liberty and regard of private right "are lost to the House," and that a Minister "had "transferred himself from a constitutional Minister "to a tyrant":

To impute to a Member of the House "that he had

"inspired an hon. Member in a disorderly course "which had brought down the censure of the House":
To impute that a Member has stated that which he knew not to be correct:
To charge a Member with "wasting the time of the "House wantonly and unjustifiably":
To speak of Members as "colleagues in atheism":
To charge a Member "with sheltering himself behind "a miserable subterfuge":
To charge, even hypothetically, Members with being "cowards who dared not go among their constituents "to deliver their speeches":
To say that a Member has not kept his word, or is of "remarkably fragile honor," or is guilty of "dis-"orderly conduct and rebellious action":
To refer to any section of Members as "steeped in "treason":
To charge a Member with "pandering to treason":
To speak of the House as consisting of forcigners:
To impute to the Government "intentional deceit," or imply that they were "only humbugging."

The following words have been ruled to be unparliamentary when applied to the conduct, actions, or language of Members:—

"Ungentlemanlike and dishonorable":
"Impertinent":
"Insolent and scornful terms":
"Entirely false and without foundation":
"Inconsistent with his character":
"Knowingly unfounded statement":
"Dodge":
"Factious opposition":
"Calumnious":
"False":
"Cowardly":
"Malicious and calumnious":
"Hypocritical pretence":
"Poltroon":
"Mendacious":
"Not credible":
"Bloodthirsty."

Withdrawal of objectionable words.

The House, through the Speaker, insists upon any objectionable or offensive words being withdrawn in a manner to satisfy both the House and the Member aggrieved by such language.

On October 25th, 1881, the words "paid adherent" having been used in debate, Motion was made that the words were "highly offensive and should be with- "drawn;" and the Member "having been called on "by the Speaker to withdraw the words declared by "the House to be highly offensive," and having refused to withdraw, the Speaker named Mr. Ward; and the Speaker having "then called upon Mr. Ward "to explain, retract, or withdraw the words declared "highly offensive, and Mr. Ward not explaining or "retracting the same words, or offering apologies for "the use thereof to the satisfaction of the House, the "Speaker then requested Mr. Ward to withdraw from "the Chamber; and Mr. Ward having refused so to do,

The words "paid adherent" objected to.

Procedure.

"The Chief Secretary moved—That the Speaker "having requested the hon. Member for the Burra to "withdraw from the Chamber, and he having refused "to do so, the Speaker be now requested to instruct the "Serjeant-at-Arms to remove the hon. Member from "the Chamber.

"Question put and passed.

"The Speaker then instructed the Serjeant-at-Arms "to remove Mr. Ward from the Chamber, and the "Serjeant-at-Arms having removed Mr. Ward from "the Chamber,

"The Chief Secretary moved—That, in the opinion "of this House, the hon. Member for the Burra should "not be permitted to address the House until he has "withdrawn the words that this House has declared "to be offensive."

On Wednesday, October 26th, Mr. Ward withdrew the words used by him, and the restriction on his addressing the House was thereupon withdrawn, on Motion.

The hon. Member was subsequently allowed to make a personal explanation (V. & P., 1881, pp. 207, 211).

It may happen that a Member is not content with merely objecting to words used, but desires a record to be made.

The Standing Orders provide—

Words taken down in the House.

When any Member objects to words used in debate, and desires them to be taken down, the Speaker shall direct them to be taken down by the Clerk accordingly. —Standing Order 151.

Words to be objected to when used.

Every such objection must be taken at the time when such words are used, and not after any other Member has spoken.—Standing Order 153.

A Member must object to some definite expression, and immediate objection must be taken, for, if the Member is permitted to continue his speech without interruption, it is too late to move (cf. Denison's Decisions, pp. 85, 86; May, Practice of Parliament, pp. 377, 378).

Member not explaining or retracting.

Any Member, having used objectionable words, and not explaining or retracting the same, or offering apologies for the use thereof to the satisfaction of the House, shall be censured, or otherwise dealt with as the House may think fit; and any Member called to Order shall sit down, unless permitted to explain.—Standing Order 154.

Member to withdraw when his conduct is under debate.

When, in consequence of highly disorderly conduct, the Speaker shall call upon any Member by name, such Member shall withdraw as soon as he has been heard in explanation; and after such Member's withdrawal the House shall at once take the case into consideration. —Standing Order 157.

When charge made against a Member.

In the case of a charge against a Member for any breach of the Orders of the House, or for any matter that has arisen in debate, the charge shall be stated, and the Question moved before the Member accused shall withdraw. He shall then be allowed the opportunity of explaining to the House the motives of his conduct in the matter alleged against him; and, after having so done, he shall withdraw, when the House shall at once take the case into consideration.—Standing Order 158.

The lobbies of the House.

The jurisdiction of the House also extends to the lobbies.

"If one hon. Member complains of offensive words "used to him, in the lobby, by another hon. Member, "the Speaker calls upon the hon. Member complained "of, that he may be heard in explanation and by the "House; and the usual course is followed—the hon. "Member withdrawing, and the House calling upon "such hon. Member to withdraw and apologise" (cf. Brand's Decisions, 1872-1880, p. 107). Complaint of language used in lobbies. Procedure.

In addition to language calculated to reflect upon Members or the House, it is contrary to the unwritten law of Parliament to make charges reflecting on public functionaries or classes of persons, when there are more constitutional modes of dealing with them, if their conduct is to be challenged; or unless, in the case of classes of persons, the Member has strong proof of his assertions (cf. Brand's Decisions, 1872-1880, pp. 84-86, 105, 106). Charges against public functionaries and classes of the community.

Any Member may rise to speak "To Order," or upon a matter of Privilege suddenly arising.—Standing Order 145. Speaking to "Order" or "Privilege."

All Questions of Order and matters of Privilege, at any time arising, shall, until decided, suspend the consideration and decision of every other Question.—Standing Order 146. Precedence to Question of "Order" or "Privilege."

Upon a Question of Order being raised, the Member called to Order shall resume his seat; and after the Question of Order has been stated to the Speaker by the Member rising to the Question of Order, the Speaker shall give his opinion thereon; but it shall be competent for any Member to take the sense of the House after the Speaker has given his opinion; and in that case, any Member may address the House upon the Question.—Standing Order 148. Proceedings on Question of Order.

If any objection is taken to ruling or decision of the Speaker, such objection must be taken at once.—Standing Order 149. Objection to ruling of the Speaker.

The Speaker is the Executive Officer of the House, to enforce its authority. He at once rises to check obvious infringements of Order, and when he rises, Speaker interposes to preserve Order.

the Member speaking resumes his seat, and the Speaker is heard in silence.

Attention of Speaker called breach of Order.

When his attention is directed by another Member to an infringement of Order by the Member addressing the House, he at once interposes.

Final authority vested in House.

But the House reserves to itself the ultimate authority, and, in doubtful cases, where there is no specific rule, the Speaker frequently asks the House for its judgment. The House, too, may overrule the decision of the Chair.

Speaking to Order during division.

A Member can only speak to a point of Order, while the House is dividing, by permission of the Speaker.—Standing Order 171.

Decision on point of Order during division.

If any difficulty arise on any point of Order during a Division, the Speaker shall decide it, subject, however, to the ulterior decision of the House.—Standing Order 172.

Member speaking with locked doors.

It has been stated that a Member speaks sitting and covered when the doors are closed for a Division.

Documents quoted in debate.

It is a standard rule and principle of debate that a Minister is not at liberty to read or quote from a dispatch or State Paper unless he is prepared to lay it on the Table.

Rule applies to public documents.

It is obviously right that the House should have access to the same sources of information as a Minister, if the latter makes statements, or bases arguments, or asks the House to accept conclusions, founded upon Public Papers which he quotes. But the rule applies to public documents only, not to private letters, or even memoranda. A memorandum made by a Minister, or by anyone else for the use of a Minister, with a view to furnishing information to be communicated to the House, is not treated as a public document whose production can be enforced. Otherwise the House would, in effect, by indirect means, require the production of Papers which, if moved for separately, would be refused as beyond its jurisdiction.

Certain official Papers not treated as public documents.

Information may be referred to.

A Minister may refer to information received by the Government without citing documents.

House will accept public interest as reason for not producing documents.

And even in the case of an official document, if the public interest be opposed to its production, that reason would be accepted by the House for withholding the document (cf. Brand's Decisions, 1872-1880, pp. 125, 126; May, Practice of Parliament, pp. 378, 379).

Rule not applied to private Members.

The rule, however, does not seem, according to precedents of the Imperial Parliament, to apply to private Members, by whom public documents in possession of the Government, though not before the House, may be quoted, without a claim being put forward that they should be laid on the Table (cf. May, Practice of Parliament, p. 379; *Hansard*, vol. 137, p. 261).

Documents usually moved for when quoted; but also produced without Motion.

It has been the more frequent practice in the House of Assembly, for a Motion to be made that documents cited by a Minister be laid on the Table; though there are also precedents of their being produced without such Motion.

Instances of Motion to produce.

Thus, on February 14th, 1872, the Attorney-General having read communications with the Anglo-Australian Telegraph Expedition, Motion was made that the Papers be laid on the Table and printed (V. & P., 1872, p. 50).

Similar precedents occur in the Journals for September 30th, 1873; July 1st, 1874; July 22nd, 1874; October 7th, 1874; October 28th, 1874; August 18th, 1882; July 26th, 1883.

Instances of documents laid on without Motion.

Instances of Papers referred to by Ministers, and laid upon the Table in consequence of such reference, will be found in the Journals for September 28th, 1875; August 16th, 1876; October 6th, 1876; October 10th, 1876.

Procedure by Motion preferable.

It is more convenient that such Papers should be laid before the House on Motion; for, if laid on without Question put, it might happen that Papers would be produced and become public which the House might refuse, on Motion to be laid on the Table, as opposed to the public interest.

Latitude of debate on Motion for Supply or Ways and Means Committee.

It has been stated that the principle of progress does not apply to the Committees of Supply and Ways and Means. Whenever progress has been reported, and the Committee has been ordered to sit again on a certain day, when the Order of the Day is read, the Question for going into Committee must be put from the Chair. Any Amendment may be moved to the Question, upon the ancient constitutional doctrine that the redress of grievances is to be considered before granting Supply. The rule of relevancy of Amendments is not enforced. It is also competent, without moving any Amendment, to call the attention of the House to any Question, the rule of relevancy of debate being wholly ignored. Certain limitations are, however, imposed, so that fundamental rules be not violated.

Relevancy not enforced.

Fundamental rules observed.

Discussion not to be anticipated, nor past business referred to.

Thus, it is not competent to discuss the details of a Bill to be considered; nor to anticipate Motions of which Notice has been given; nor to discuss votes passed or votes standing for consideration; nor to reply to anything said in a debate on a vote that has been passed.

House may not anticipate Committee.

In deference to the wish of the House, a Ministerial statement would be allowed on Estimates about to be referred to the Committee of Supply; but the work of the Committee may not be anticipated by a general discussion.

General statement and debate on a division of the Estimates.

In the Committee it is competent for the Minister in charge of a particular division of the Estimates to make a general statement thereon, and other Members may follow; but, after the first vote has been agreed to, the debate must be confined to the particular vote before the Committee. When a Motion has been made to omit or reduce an item in a vote, the discussion is restricted to that item. No reference can be made to any vote which has been passed, nor to one not yet submitted (cf. Denison's Decisions, pp. 189-191; Brand's Decisions, 1872-1880, pp. 203-207; May, Practice of Parliament, pp. 660, 661, 663, 667).

Rule of debate on particular votes.

Debate on Bills.

We shall now consider the rules of debate on Bills.

Debate on leave to introduce.

When a Member moves for leave to bring in a Bill, he is at liberty to discuss the reason for its introduction and its objects; but, this is not the proper time for a full debate thereon, unless there is a probability of opposition and of the Motion being negatived.

On Motion for Committee to prepare.

On a Motion for a Committee of two Members to prepare and bring in a Bill, a general discussion on the Bill cannot be raised, but there may be a discussion on the Question as to who the Members should be.

First reading not debated nor amended.

The first reading of a Bill, whether presented by a Member, received from the Governor, or brought from the Council, is not open to debate or Amendment (cf. Standing Order 278).

Main discussion on second reading.

The second reading of a Bill is regarded as its most important stage. This is the proper time to discuss the merits and principles of the Bill. If the Bill deals with a particular object, it is not in Order to discuss a general issue.

Debate on second reading must not anticipate discussion in detail proper for Committee.

It is not in Order to anticipate the work of Committee by going through the Bill, clause by clause, or to discuss the clauses in detail; but, if any clause in a Bill raises a vital principle, it can be discussed on the second reading. So, if, before a Bill is read, a second time public Notice be given of an intention to move an important new clause, and the clause is printed and circulated amongst Members, the debate on the second reading cannot be carried out properly without reference to such clause.

Reference to kindred Bill.

Where two Bills dealing with kindred Questions and analogous cases are before the House, by leave of the House, in discussing one Bill, reference can be made to the other. For purposes of illustration a Member can refer to a Bill other than that immediately under discussion.

Restriction on debate on fixing time for resumption of debate.

If the debate on the second reading of a Bill be adjourned, on the Question for fixing the date when the debate shall be resumed, it is out of Order to discuss the merits of the Bill, but the subject matter

of the Bill may be referred to as affording reasons for settling the date of continuing the discussion.

Revival of Question for second reading

In the event of the House negativing the Question that a Bill be "now" read a second time, which, as already shown *(vide ante*, pp. 239, 240), does not finally dispose of the Bill, should the second reading be again brought forward, on Motion upon Notice, the debate upon such Question is an entirely new discussion, wherein all Members may take part.*

Debate renewed.

Debate on Motion to discharge Order for second reading

On a Motion to discharge the Order of the Day for the second reading of a Bill, the subject matter of the Bill may be discussed; but it is not in order to discuss the merits of the Bill (Brand's Decisions, 1872-1880, pp. 47, 48).

Debate on Committee Motion.

On the Motion to go into Committee on a Bill, the main provisions of the Bill may be discussed; but it is not in order to discuss the clauses or particular clauses, nor Amendments to be proposed in Committee, though they may be referred to.

Revival of Committee Motion. Debate renewed.

When the Motion has been negatived, and is renewed upon a subsequent day, the Motion is a new one, and Members can again speak thereon.

Debate on discharge of Committee Motion.

On a Motion that the Order of the Day for going into Committee on a Bill be read and discharged, any discussion on the merits of the Bill, or a debate on the Bill, is out of order.

Debate in Committee.

In the Committee it is not in order to refer to the debate on the second reading (V. & P., 1872, p. 181).

Question put.

A Question must be put on a clause or Amendment before any debate can arise.

Debate on postponement of clause.

On a Motion to postpone a clause, the debate must be limited to the Question of postponement, and may not be extended to the merits of the Bill.

---

* NOTE.—Should the House negative the Question for *now* reading a Bill a second time, an Amendment having been moved for a subsequent day for such second reading, and should also negative the proposed Amendment by declining to insert the words thereof, the House may order the Bill to be read a second time, on some other day, as a further Amendment to the Question; and the Bill may be again debated on the Order being read.

When progress has been reported, and Motion is made in the House that the Committee have leave to sit again, it is not in order to refer to any Amendments or action in Committee, even as a reason for giving the date for the next sitting, as the House is not supposed to be informed of any of the proceedings until the Committee has reported. Debate on Motion for leave for Committee to sit again.

Although an Instruction to a Committee is a substantive Motion, the mover is not entitled to reply. No reply to mover of Instruction.

Objections to an Instruction must be urged when the Instructions are under discussion. Objection to Instruction.

On the Question for the date of the consideration of the Bill as amended by the Committee, the only Amendment possible is one as to the time when the consideration should be taken, and the discussion must be relevant thereto. Debate on date for consideration of Bill.

On a Motion to recommit a Bill, with regard to certain clauses, it is irregular to discuss another clause. Debate on recommittal.

On the third reading, the entire Bill is subject to the judgment of the House, and the subject matter and merits of the Bill may be fully debated. On important Questions, a very full debate will frequently take place at this stage, and also a Division; but in respect of unimportant Bills, the third reading is generally passed without discussion. Debate on third reading

The last Question—"That this Bill do now pass, "and the title be_____"—is practically carried *nemine contradicente*. Debate on final Question.

In considering Amendments by the Council it is not competent to discuss the Bill itself. Council's Amendments debate.

Although the Appropriation Bill is no exception to the general rule that debates should be relevant to the subject matter of the Bill before the House, yet, as the Bill appropriates the several supplies for the service of the year, the rule has a wide application in this instance. Appropriation Bill. Rule of debate.

Order in Committee follows the same rules as in the House, *mutatis mutandis*. Order in Committee.

The Standing Orders relating thereto are given here.

Rules of debate in Committee.

159. The several rules for maintaining order in debate shall be observed in every Committee of the Whole House.

Order to be maintained by the Speaker and Chairman of Committees.

160. Order shall be maintained in the House by the Speaker, and in a Committee of the Whole House by the Chairman of Committees; but disorder in a Committee can only be censured by the House on receiving a Report.

Objection to ruling of Chairman of Committees.

150. If any objection is taken to a ruling or decision of the Chairman of Committees, such objection must be taken at once; and, having been stated in writing, the Chairman shall leave the Chair, and the House resume, and the matter be laid before the Speaker; and, having been disposed of, the proceedings in Committee shall be resumed where they were interrupted.

Words taken down in Committee.

152. In a Committee of the Whole House, the Chairman shall direct words objected to to be taken down, in order that the same may be reported to the House.

PRIVILEGE.

Question of Privilege.

In a work whose principal aim and object is to set forth the practice of the House in the conduct of its deliberations and legislative functions, it would be out of place to attempt to deal, in a comprehensive manner, with the Question of Privilege.

Unsatisfactory position of.

The greatest authority has stated that "the position "of Privilege is in the highest degree unsatisfactory. "Assertions of Privilege are made in Parliament, and "denied by the Courts. The officers who execute the "orders of Parliament are liable to vexatious actions; "and, if verdicts are obtained against them, the "damages and costs are paid by the Treasury" (May, Practice of Parliament, p. 190).

Necessity of Privilege.

In the support of its authority, and the exercise of the functions entrusted to it by the Constitution, it is necessary that Parliament should enjoy various Privileges.

Privileges common to both Houses.

Privileges of Members.

Privileges, properly so called, belong equally to both Houses. Other Privileges belong to Members in their individual capacity; to protect their persons, and secure their independence and dignity.

Privilege Act, 1872.

The Privileges of the Parliament of South Australia are defined by the Privilege Act, No. 14 of 1872, the Queen's assent whereto was proclaimed December 17th, 1872.

It is thereby enacted—

Privileges, powers, &c., of Council and Assembly.

1. The Legislative Council and House of Assembly of South Australia respectively, and the Committees and Members thereof respectively, shall hold, enjoy, and exercise such and the like Privileges, immunities, and powers as, and the Privileges, immunities, and powers of the said Council and Assembly respectively, and of the Committee and Members thereof respectively,

are hereby defined to be the same as at the time of the passing of the Constitution Act, were held, enjoyed, and exercised by the Commons House of Parliament of Great Britain and Ireland, and by the Committees and Members thereof, whether such Privileges, immunities, or powers were so held, possessed, or enjoyed by custom, Statute, or otherwise: Provided that no such Privileges, immunities, or powers shall exceed those held and exercised by the Commons House of Parliament, or the Members thereof, at the time of the passing of the Constitution Act.

Printed copies of Journals of House of Commons to be evidence.

2. Any copy of the Journals of the House of Commons printed, or purporting to be printed, by the order or Printer of the House of Commons, shall be received as *prima facie* evidence, without proof of its being such copy, upon any inquiry touching the Privileges, immunities, and powers of the said Council or Assembly, or any Committee or Member thereof respectively.

Repeal of Act.

3. Act No. 9 of 1858—the Parliamentary Privilege Act—is hereby repealed.

Privileges of House of Commons to be ascertained.

Having in view the provisions of this Act, in cases of Privilege or breach of Privilege arising, it would be necessary to ascertain the Privileges of the House of Commons under a similar or analogous case.

Privileges, whence derived.

Privileges are enjoyed mainly by virtue of the "*lex et consuetudo Parliamenti*."

Declaration of Parliament proof of Privilege.

It is admitted by all constitutional writers that whatever Parliament has constantly declared to be a Privilege is the sole evidence of its being part of the ancient law of Parliament.

New Privileges cannot be created.

Each House declares and vindicates its own Privilege; but it is agreed that no new Privilege can be created.

Resolution of 1704 against creating new Privileges.

"In 1704, the Lords communicated a resolution to "the Commons, at a Conference—'That neither House "'of Parliament have power, by any vote or declara-"'tion, to create to themselves new Privileges, not "'warranted by the known laws and customs of Par-"'liament,' which was assented to by the Commons" (May, Practice of Parliament, pp. 72, 73).

Privileges of House of Commons.

We shall proceed to indicate briefly some of the chief Privileges of the House of Commons.

Commitment.

The House may commit for contempt, and this carries with it, *ex vi necessitatis*, authority and protection for its officers in executing the orders of the House. This power is the keystone of Parliamentary Privilege.

Grounds of commitment not reviewed by Courts of law.

As the House alone adjudges an act to be a breach of Privilege and contempt, the Courts of law cannot inquire into the grounds of the judgment, but must leave a party to suffer the punishment awarded by the High Court of Parliament, by which he stands committed.

Commitment limited to matters within jurisdiction of House.

"Adjudication is a conviction, and their commitment, in consequence, an execution." But the House cannot commit for an offence beyond the jurisdiction of the House.

Breach of Privilege.

Disobedience to the orders and rules of the House, in the exercise of its constitutional functions, constitutes a breach of Privilege.

Breaches of Privilege classified.

Breaches of Privilege may be divided into—

(1) Disobedience to general orders or rules of either House:

(2) Disobedience to particular orders:

(3) Indignities offered to the character or proceedings of Parliament:

(4) Assaults or insults upon Members, or reflections upon their character and conduct in Parliament, or interferences with Officers of the House in discharge of their duty (May, Practice of Parliament, p. 90).

Freedom of speech.

The most essential Privilege of a free Legislature is freedom of speech.

Bill of Rights.

The ninth article of the Bill of Rights declares—"That the freedom of speech, or debates, or proceedings in Parliament ought not to be impeached or questioned in any Court or place out of Parliament."

Separate publication of speech takes away Privilege.

But if a Member publishes his speech, it is regarded as a separate publication and can no longer claim Privilege.

Freedom from arrest.

Freedom from arrest is one of the earliest Privileges, dating from the first existence of national Councils. Formerly the servants of Members were included in the Privilege, but this has been discontinued.

Freedom confirmed by statute.

The freedom of Members, owing to statutory enactments, is now a legal right rather than a Privilege. The arrest of a Member is irregular *ab initio*, and he may be discharged immediately, upon Motion in the Court whence the process issued. The duration of this Privilege has never been defined, but forty days are allowed to be the period, on the grounds of usage and universal opinion. The custom of frequent prorogations secures the full enjoyment of this Privilege.

Duration of Privilege of freedom.

The general claim of exemption, *eundo et redeundo*, extends also to dissolutions.

Freedom Privilege limited to civil matters. Subpœnas not resisted.

The Privilege is limited to civil cases.

Formerly, Members could resist subpœnas, but this Privilege has been abandoned in effect.

Officer of House must be authorised by House to attend to subpœna.

But no Officer of the House should be served with a subpœna to give evidence concerning any proceedings in Parliament, or to produce documents in his custody, until leave has been given him to attend.

Members not to sit on Juries.

Nor are Members liable to be called on to serve on juries, and this exemption holds good without reference to the Sitting of Parliament.

Privilege of freedom attaches to officers and others in respect of service to House.

Freedom from arrest and molestation attaches to officers of the House in immediate attendance upon the service of the House, and to witnesses and suitors appearing before the House or Committees in respect of statements made before the House or Committee; and this is extended to Counsel in respect of what they have stated professionally.

Jurisdiction of Courts.

The jurisdiction of the Courts in matters of Privilege is confessedly one of the most difficult Questions of constitutional law.

Recent proceedings in the case of Mr. Bradlaugh have brought the difficulties of this Question into prominent view. It would be foreign to the scope of this work to attempt to discuss the matter.

"May" on Privilege.

The whole Question of Privilege is exhaustively, and, it is needless to add, most ably treated by Sir T. Erskine May in chapters III., IV., V., and VI. of his work on the Practice of Parliament, to which the reader is referred.

Certain Privileges of the nature of rights in respect of Money Bills.

Apart and distinct from Questions of Privilege proper, which are common to both Houses, certain claims of Privilege are maintained by the House as against the Legislative Council in respect of Money Bills. These are, correctly speaking, rather claims of rights than of Privilege.

House refuses right of Council to alter Money Bills.

It may be shortly stated that the House does not admit the right of the Legislative Council to change, alter, or amend Money Bills. It claims, in effect, similar powers to those enjoyed by the House of Commons in respect of such Bills; and when it agrees to Amendments made by the Council, which appear to affect those rights, a special entry is made in the Journals, explaining the grounds of such agreement.

Amendments agreed to with special entry.

Instances.

Thus, Amendments were agreed to in Chinese Bill, as they "do not interfere with or alter in any essential "manner the money clauses of the Bill" (V. & P., 1857-8, p. 200; cf. also Monthly Postal Bill, *ibid.*, p. 225; Waste Lands Sales Appropriation Bill, V. &. P., 1868-9, pp. 200, 201; Waste Lands Bill, *ibid.*, pp. 266, 267; Intercolonial Free Trade Bill, V. & P., 1870-71, pp. 328, 329).

Amendments disagreed to.

Instances.

On the other hand, Council Amendments in Bills have been disagreed to by the House as infringing these rights (cf. Northern Territory Act Amendment Bill, V. & P., 1868-9, p. 140; Land Fund Bill, V. and P., 1869-70, p. 102; Audit Bill, V. & P., 1870-71, p. 289).

Practice of suggestions

But the practice of the Legislative Council offering suggestions in Money Bills, which has been adopted of late years, has tended greatly to facilitate public business, and prevent friction between the two Houses (*vide ante*, pp. 269-271, and pp. 275-278).

Procedure in respect of Money Bills.

A Return to the Order of the House of June 12th, 1877, ordered to be printed, July 11th, being copies of resolutions, &c., *re* mode of procedure in respect to

Money Bills, illustrates the views of both Houses on this Question.

The following extracts therefrom will be of interest:—

Journals, 1857.

Wednesday, June 10th, 1857.

9. Privilege—The Chief Secretary having called attention to a Question of the Privileges of the House, with regard to the alterations made by the Legislative Council in the Tonnage Duties Repeal Bill passed by this House, and forwarded to the Legislative Council for their concurrence, and yesterday returned by Message with various Amendments, moved—That the Bill passed by this House, intituled "An Act to repeal Tonnage Duties on Shipping, and to authorise the leasing of the Wharf Frontage at Port Adelaide known as the North-Parade," which was forwarded on 12th May last to the Legislative Council for their concurrence, having been returned to this House with Amendments, modifying the Bill in an essential principle, this House requests the Legislative Council to reconsider the Bill, inasmuch as it is a breach of Privilege for the Legislative Council to modify any Money Bill passed by this House.

Debate ensued.

Question put and passed unanimously.

The Chief Secretary moved—That the above resolution be transmitted by Message to the Legislative Council.

Question put and passed.

Tuesday, July 21st, 1857.

5. Messages from the Council—The following Messages from the Legislative Council were received and read:—

Message No. 3.

Mr. Speaker—The Legislative Council transmits to the House of Assembly the Bill and Amendments sent herewith, intituled "An Act to repeal Tonnage Duties "on Shipping, and to authorise the leasing of the "Wharf Frontage at Port Adelaide known as the "North-Parade;" together with a copy of a resolution passed by the Council on the 17th June, 1857, explanatory of the reasons for transmitting the said Bill and Amendments to the House of Assembly.

In accordance with such resolution, the Legislative Council desires the concurrence of the House of Assembly in the said Amendments.

J. H. FISHER, President.

Legislative Council Chamber, July 21st, 1857.

Copy of Resolution passed by the Legislative Council on June 17th, 1857.

This Council having received a Message from the House of Assembly, stating that this Council has committed a breach of Privilege in returning to the House of Assembly the Tonnage Duties Repeal Bill, which was passed by that House, with certain Amendments made by the Council; and having given the fullest re-consideration to the Message of the House of Assembly, resolves that, in the opinion of this Council, it has not committed a breach of Privilege in making the Amendments to the Bill in question, it being the undoubted right of this Council to make Amendments in all Bills whatever sent up to the Council by the House of Assembly; and that it being bound, in justice to the people by whom it is elected, to maintain their rights, and to exercise the powers given it by the Constitution Act, it is the imperative duty of this Council to send the Tonnage Duties Repeal Bill again to the House of Assembly, and to desire that the House will concur in the Amendments made by the Council; but this Council regrets that the House of Assembly has not adopted the more Parliamentary course of requesting a Conference between the two Houses on the point in question.

F. C. SINGLETON,
Clerk of the Legislative Council.

Wednesday, July 22nd, 1857.

12. Privilege—On Motion of the Chief Secretary the Speaker left the Chair, and the House resolved itself into a Committee of the Whole, for the purpose of considering the Question of Privilege involved in the Message received yesterday from the Legislative Council, forwarding, for the second time, Amendments in a Money Bill passed by this House, namely, the Tonnage Duties Repeal Bill.

[In the Committee.]

The Message of the Legislative Council, dated the 17th June, 1857, in the following terms:—That this Council having received a Message from the House of Assembly, stating that, &c., *ut ante*, having been read,

The Chief Secretary moved—

That the Amendments proposed in the Tonnage Duties Repeal Bill by the Legislative Council be not agreed to by this House; and that the Bill remain on the Table pending the further pleasure of the House, with a note

thereon of this decision, to be made and signed by the Clerk.

That, by the Constitution Act, the sole power to originate any Bill for appropriating any part of the Revenue, or for imposing, altering, or repealing any rate, duty, or impost, is vested in the House of Assembly.

That the right so conferred of originating all Bills for these purposes necessarily includes the sole right to direct, limit, and appoint in such Bills the ends, purposes, considerations, conditions, limitations, and qualifications of the tax or appropriation by such Bill imposed, altered, repealed, or directed, free from all change or alteration on the part of any other House.

That, when this House transmitted to the Legislative Council its Message of the 10th June, 1857, it had no reason to suppose that any Conference with the Legislative Council could be required, since the power with regard to Money Bills, claimed in the Message now under consideration, had not then been asserted.

Debate ensued.

The Speaker resumed the Chair, and reported progress, and the Committee obtained leave to sit again to-morrow.

Thursday, July 23rd, 1857.

4. Question of Privilege: Adjourned debate—On the Order of the Day being read for the further consideration in Committee of the Question of Privilege involved in the Message received on July 21st, from the Legislative Council, forwarding, for the second time, Amendments in a Money Bill passed by this House, namely, the Tonnage Duties Repeal Bill, the Speaker left the Chair, and the House resolved itself into a Committee of the Whole.

[In the Committee.]

The Question having been proposed—That the Amendments proposed in the Tonnage Duties Repeal Bill, by the Legislative Council, be not agreed to by this House, &c., *ut ante*.

Debate resumed.

Mr. Babbage moved an Amendment—To strike out all the words after "That," in the first line of the second paragraph, with a view to insert the following—"this House regrets that any misunderstanding, with "regard to their respective Privileges, should have "arisen between this House and the Legislative Council;

"and that, in order to adjust this difference, and to "arrange for carrying on the public business of the "country pending this adjustment, the Legislative "Council be invited to meet this House in free Con- "ference; and that the Managers of this Conference be "the Honorable the Chief Secretary, the Honorable the "Attorney-General, the Honorable the Treasurer, Mr. "Milne, and Mr. Bagot."

The Speaker resumed the Chair, and reported progress, and the Committee obtained leave to sit again tomorrow.

Friday, July 24th, 1857.

3. Question of Privilege: Adjourned debate—On the Order of the Day being read for the further consideration in Committee on the Question of Privilege involved in the Message received, on July 21st, from the Legislative Council, forwarding, for the second time, Amendments in a Money Bill passed by this House, namely, the Tonnage Duties Repeal Bill, the Speaker left the Chair, and the House resolved itself into a Committee of the Whole.

[In the Committee.]

The Question having been proposed—That the Amendments proposed in Tonnage Duties Repeal Bill, by the Legislative Council, be not agreed to by this House, &c., *ut ante*.

To which an Amendment was made—To strike out all the words after "That," in the first line in the second paragraph, with a view to insert the following, &c., *ut ante*.

Debate resumed.

Question—That the words proposed to be struck out stand part of the Question.

Committee divided.

Ayes, 26; Noes, 1.

The original resolutions were then agreed to.

The Speaker resumed the Chair, and reported that the above resolutions had been agreed to by the Committee; whereupon the House adopted such Report.

Tuesday, August 25th, 1857.

6. Message from the Council—The following Message from the Legislative Council received and read:—

Message No. 11.

Mr. Speaker—The Legislative Council requests that a Conference be granted to it by the House of Assembly,

in reference to the powers of the two Houses in reference to Money Bills, with a view to arranging a mode of exercising these powers, which shall conduce to the furtherance of public business, without compromising the constitutional right of either branch of the Legislature.

The Legislative Council transmits copy of resolution passed on the 6th August instant, together with those agreed to this day.

J. H. FISHER, President.

Legislative Council Chamber, August 25th, 1857.

Copy Resolutions agreed to on August 6th, 1857.

1. That, in consequence of the course adopted by the House of Assembly in reference to the Amendments made by this Council in the Tonnage Duties Repeal Bill, and in the recent discussion of the Question of Privilege raised by that House as arising out of such Amendments, it is expedient that this Council should place upon record its opinion as to the powers and Privileges conferred upon it by the Constitution Act, so far as regards its powers in dealing with Money Bills.

That this Council is of opinion—

2. That it is its bounden duty to maintain inviolate its rights as an elective representative portion of the Legislature of this Colony, and that the power of protecting its constituents and the Colony at large from oppressive or unjust taxations or burthens is essentially and necessarily an ingredient in such rights.

3. That the Constitution Act empowers it to originate any Bills which it may think necessary for the order and good government of the Colony, except Money Bills, which can only be originated in the House of Assembly.

4. That it has the power to consider and discuss all Bills transmitted to it by the House of Assembly, and to alter, modify, or reject such Bills; that the House of Assembly has similar power with reference to all Bills sent from this Council; and that the powers of the two Houses of Legislature are concurrent, except as to the origination of Money Bills.

5. That it is empowered to revise all Money Bills passed by the House of Assembly, with a view of checking, and, if necessary, of reducing the taxation of the country; and that such power, judiciously exercised, will operate more for the benefit of the Colony than the power of voting, to which the House of Assembly is desirous of restricting it.

6. That in case the House of Assembly should, in any Money Bill sent by that House to this Council for its concurrence, propose to subject the people of this Colony to a greater amount of taxation than this Council, in the exercise of its judgment, might think just and proper; or propose so to apportion the Revenue as to give an unjust advantage to any particular part of the Colony; the only result which must necessarily flow from the attempted restriction by the House of Assembly of the right of this Council to reduce the proposed amount of taxation, or to modify its appropriation, would be to arbitrarily compel this Council to reject the Bill, the consequences of which, in the case of an Appropriation Bill, might be most disastrous to the Colony.

7. That the limited power of saying "Yes" or "No" to a Money Bill—of absolutely passing it in its entirety, or rejecting it in its entirety—is inconsistent with the advanced position of this Colony in political rights; that such a restriction of power was not contemplated by the constituency who elected the Members of this Council; and that this Council would be wanting in fidelity to that constituency and to the country were it to admit such restriction.

8. That, as this Council represents the Province as one constituency, it would be unreasonable to prevent it from reducing any vote which might, in its opinion, press too heavily upon the people.

9. That the exclusive power of originating Money Bills, and finally dealing with them, vested in the House of Assembly, gives to that House the control of the public purse, inasmuch as it alone has a right to decree what taxes shall be imposed, and how they shall be appropriated; and to represent that this Council is desirous of wresting the control of the purse from the House of Assembly is calculated to mislead the public as to the real merits of the Question at issue between the two Houses.

10. That the maintenance of the views now expressed need not be detrimental to the harmonious working of the two Houses; that the consideration of all Money Questions by each House would tend to a more safe and economical administration of the public finances than could be secured by the consideration of such Questions by one branch of the Legislature only; and that the denial on the part of the House of Assembly of the right of this Council to deal with matters of finance is

inconsistent with the Constitution Act, and much to be regretted.

11. That the exercise of concurrent powers of legislation by the two Houses (always excepting the originating of Money Bills by the Legislative Council) would not interfere with the proper despatch of public business; and that the advantages that would result to the country from the revision of Money Bills by this Council would more than compensate for any delay which might arise from such revision.

12. That any difference which might arise between the two Houses with reference to matters of legislation resulting from the exercise of such concurrent powers should be adjusted by a Conference.

13. That this Council should uphold the powers and Privileges conferred upon it by the Constitution Act for the protection of the interests of its constituency and the people at large, unless the voice of that constituency, clearly expressed to this Council, shall demand an alteration of the Constitution Act for the purpose of restricting those powers and Privileges.

F. C. SINGLETON,
Clerk of the Legislative Council.

Legislative Council Chamber, August 25th, 1857.

Copy Resolutions agreed to on August 25th, 1857.

1. That the adjustment of the differences of opinion now existing between the two Houses of Parliament, as to the construction to be put on the Constitution Act, so far as it relates to the dealing with Money Bills, is of such vital importance to the interests of the Province as to justify this Council in requesting a Conference with the House of Assembly upon these differences.

2. That the resolutions of this Council, adopted on the 6th August, be forwarded by Message to the House of Assembly, and that a Conference be requested thereon, in terms of No. 12 of the said resolutions.

3. That this Council further declares its opinion that all Bills, the object of which shall be to raise money, whether by way of loan or otherwise, or to warrant the expenditure of any portion of the same, shall be held to be Money Bills.

4. That it shall be competent for this Council to suggest any alteration in any such Bill (except that portion of the Appropriation Bill that provides for the ordinary annual expenses of the Government); and in

case of such suggestions not being agreed to by the House of Assembly, such Bills may be returned by the House of Assembly to this Council for reconsideration; in which case, the Bill shall either be assented to or rejected by this Council as originally passed by the House of Assembly.

5. That this Council, while claiming the full right to deal with the monetary affairs of the Province, does not consider it desirable to enforce its right to deal with the details of the ordinary annual expenses of the Government; that, on the Appropriation Bill, in the usual form, being submitted to this Council, this Council shall, if any clause therein appear objectionable, demand a Conference with the House of Assembly, to state the objections of this Council, and receive information.

F. C. SINGLETON,
Clerk of the Legislative Council.

Legislative Council Chamber, August 25th, 1857.

Ordered to be printed. (See Council Paper No. 111).

Wednesday, September 9th, 1857.

4. Conference on Privilege—Mr. Hart having, by leave, amended the Motion standing in his name, No. 1 on Notice Paper of to-day, moved—That the Conference requested by the Legislative Council, as set forth in their Message of the 25th ultimo, No. 11, be acceded to by this Assembly; and that Messrs. Bagot, Dutton, and Hanson be appointed Managers of such Conference on the part of this House.

Debate ensued.

Mr. Finniss moved an Amendment—To strike out all the words after "That," in the first line, with a view to insert the following—"this House will comply "with the demand of the Legislative Council for a "Conference, in accordance with Message No. 11, as "soon as the Legislative Council informs this House of "the number of Managers to whom it proposes to "entrust the Conference."

Question—That the words proposed to be struck out stand part of the Question.

House divided.

Ayes, 6; Noes, 15.

Question—That the words proposed to be inserted be so inserted—put and passed.

Question—That this House will comply with the demand of the Legislative Council for a Conference, in

accordance with Message No. 11, as soon as the Legislative Council informs this House of the number of Managers to whom it proposes to entrust the Conference —put and passed.

Ordered—That the resolution just arrived at by the House be communicated by Message to the Legislative Council.

Thursday, September 10th, 1857.

10. Message from the Council—The following Message from the Legislative Council received and read:—

Message No. 14.

Mr. Speaker—The Legislative Council has resolved that the number of its Members to represent the Council at the proposed Conference between the Houses of Legislature shall be three.

J. H. FISHER, President.

Legislative Council Chamber, September 10th, 1857.

Wednesday, September 16th, 1857.

9. Conference on Privilege—The Chief Secretary having, by leave, amended the Motion standing in his name, No. 8 on Notice Paper of to-day, moved—That, in compliance with Message of the Legislative Council, No. 14, requesting a Conference, Messrs. Bakewell, Dutton, and Reynolds be appointed by this House to meet the Members appointed by the Legislative Council, on Tuesday, September 22nd, at three o'clock, in the Speaker's room, and to receive their reasons.

Question put and passed.

Ordered—That the resolution just arrived at by the House be communicated by Message to the Legislative Council.

Tuesday, September 22nd, 1857.

8. Message from the Council—A Message from the Legislative Council being announced, the Speaker resumed the Chair, and the following Message was received and read:—

Message No. 18.

Mr. Speaker—The Legislative Council requests the House of Assembly to postpone the time for the Conference on the Question of the powers of the two Houses of Legislature relative to Money Bills, until Tuesday next,

the 29th day of September instant, at three o'clock p.m., or such other later day as may better suit the House of Assembly.

J. H. FISHER, President.

Legislative Council Chamber, September 22nd, 1857.

Ordered—That the request contained in this Message, for the postponement of the proposed Conference until Tuesday, September 29th, 1857, be complied with.

Tuesday, September 29th, 1857.

11. Conference on Privilege—The time being come for the Conference with the Legislative Council on the subject of the Privileges of the two Houses, the names of the Managers—Messrs. Bakewell, Dutton, and Reynolds—were called over, and they went to the Conference.

On their return, the Managers reported that they had been met at the Conference by the Managers for the Legislative Council, who had delivered to them the following reasons, which were read by the Clerk, viz.:—

Reasons offered to the House of Assembly by the Legislative Council at a Conference, in support of the resolutions transmitted to the House of Assembly by the Legislative Council, on the 25th day of August, 1857.

1. The House of Assembly assumes not only that all Bills mentioned in the proviso in the first clause of the Constitution Act (hereinafter designated Money Bills) ought to begin in that House, but, further, that it is the undoubted and sole right of that House to direct, limit, and appoint in such Bills, the ends, purposes, considerations, conditions, limitations, and qualifications of any rates, taxes, duties, or imposts thereby assessed or imposed; and that the power of the Legislative Council in respect to such Bills is merely to *pass all* or *reject all*, without any diminution or alteration.

2. The Legislative Council admits that, for the practical purpose of introducing such Bills to the consideration of and of their being dealt with by the Legislature, and for the purpose of limiting the power of such introduction to one branch of the Legislature, the sole power of originating Money Bills is, by the Constitution Act, vested in the House of Assembly; but, subject to that particular exception in favor of the House of Assembly, the Legislative Council considers that its

powers and functions are co-ordinate with and equal to those of the House of Assembly.

3. The Legislative Council contends that the law and custom of the Parliament of the United Kingdom of Great Britain and Ireland are applicable alone to that Parliament, and that such law and custom have not, nor ever had, the force of law in this Province; and, consequently, that neither the Legislative Council nor the House of Assembly possesses, at present, any *Privileges* beyond what are conferred in express terms by the Constitution Act, excepting only that both Houses have, incidentally to the functions given to them to make laws, the power of removing and punishing, in a summary way, persons guilty of obstructing their proceedings; but they possess, at common law, only such power over contempts as are necessary to the proper exercise of the functions which it is intended they shall execute. The Legislative Council contends that there is no *analogy* between the Imperial Parliament and the Parliament of South Australia; and that, even if there were, no arguments drawn from analogy could upset and override the express provisions of a written law; nor could such *analogy* either create or transfer to the Parliament of this Province the *Privileges* which appertain to the Imperial Parliament.

4. The Legislative Council considers, therefore, that the Question at issue between itself and the House of Assembly can be decided only by reference to the Constitution Act, to which both Houses owe their existence, and from which they derive their powers.

5. Considering the first section of the Constitution Act, the Legislative Council is of opinion that, viewing it apart from the proviso it contains, the powers and functions given by that section to the Legislative Council and House of Assembly are equal; and the Legislative Council sees no reason to construe the word "originate" used in that proviso in other than its ordinary etymological sense. Such construction of the word "originate" is, in the opinion of the Legislative Council, borne out by the general tenor of the Act, but more especially by section 28, which empowers the Governor to amend any Bills, and consequently Money Bills; from which it is clear that, in originating such Bills, the House of Assembly does not derive the right of exclusively dealing with them. Besides, the meaning put upon the term "originate" by the House of Assembly would, if

upheld, prevent the Legislative Council from altering *any* Bills sent to it by that House.

6. The Legislative Council, therefore, considers that it has, in at once admitting the exclusive power of the House of Assembly to originate Money Bills, recognised the only peculiar and distinguishing function vested by the Constitution Act in that House.

7. The Legislative Council considers that the Constitution Act clearly demonstrates that the powers of the South Australian Parliament should be limited to the powers possessed and exercised by the Commons House of Parliament, with authority to the South Australian Parliament to determine and define the powers, Privileges, and immunities to be respectively held, enjoyed, and exercised by the Legislative Council and House of Assembly—always excepting the power of originating Money Bills, which, by the first section, is vested in the House of Assembly.

8. The right exercised by the Commons House of Parliament of originating Money Bills, and of excluding the Lords from modifying or altering them, was founded upon their elective character, as being the representatives of the whole body of the people, and thereby contradistinguished from the Lords as an hereditary body, and was claimed as a Parliamentary *Privilege*, and not as a right at common law. The Legislative Council and House of Assembly, being both elective bodies, would have equally the right exercised by the Commons House of Parliament: Provided such right was inherent by law in every Representative Legislature, and was not one of Privilege, and established by usage and custom.

9. Although no arguments drawn from *analogy* could be of use in the present difference between the Houses, yet the Legislative Council cannot but point to the proviso in the 35th section of the Constitution Act, as an express denial that there can or shall exist any analogy between the House of Lords and the Legislative Council—in so far as Privileges, immunities, and powers are concerned.

10. All *analogy* between the British Parliament and the Parliament of South Australia is also repelled by the 28th section of the Constitution Act, which gives the Governor power to transmit, by Message to either House, any Amendment which he shall desire to be enacted in any Bill presented to him for Her Majesty's

assent; and it cannot be denied that all *Money Bills* must be so presented.

11. In order to avoid any further misunderstanding between the two Houses of Parliament in reference to Money Bills, the Legislative Council would suggest that the adoption by the House of Assembly (without prejudice to the rights of either House, but as a matter of expediency), of the third, fourth, and fifth resolutions passed on the 25th August last by the Legislative Council, would tend to facilitate and to forward the conduct of the business of each House and to the advancement of the public interests, until the powers and Privileges of each House shall be determined and defined by the Parliament of this Province.

Ordered to be printed. (See Council Paper No. 145).

Ordered—That the consideration of these reasons be an Order of the Day for Wednesday, October 14th.

Wednesday, October 14th, 1857.

10. Question of Privilege—On the Order of the Day standing No. 2 on Notice Paper of to-day being read, the Attorney-General moved—That a Committee be appointed, to consist of the Attorney-General and Messrs. Torrens and Blyth, to draw up reasons in reply to those offered by the Legislative Council on the subject of Privilege; and that the Report of such Committee be brought up on Wednesday, October 28th.

Question put and passed.

Thursday, October 22nd, 1857.

9. Messages from the Council—The following Messages from the Legislative Council received and read:—

* * * * *

Message No. 24.

Mr. Speaker—The Legislative Council has agreed to the Amendments made by the House of Assembly upon the Amendments made by the Legislative Council in a Bill intituled "An Act for regulating the Sale of Waste "Lands belonging to the Crown in South Australia," without any Amendment.

In reference to the same subject, the Legislative Council has passed a resolution, copy of which is herewith transmitted.

J. H. FISHER, President.

Legislative Council Chamber, October 22nd, 1857.

[*Copy Resolution.*]

Resolved—"That, as the House of Assembly, in "transmitting the Waste Lands Bill with Amendments "to this Council, on the 20th instant, directed that it "should be accompanied by a resolution of that House "—stating that inasmuch as the Amendments made by "the Council did not interfere with or alter in any "essential manner the money clauses of the Bill, the "House of Assembly had agreed to the same—the "Council feels itself called upon to re-assert its right to "alter or modify any Bill transmitted to it by the House "of Assembly."

F. C. SINGLETON,
Clerk of the Legislative Council.

Ordered to be printed. (See Paper No. 172.)

Wednesday, November 4th, 1857.

5. Privilege Question—The Attorney-General, Chairman of the Committee appointed on October 14th, "To "draw up reasons on Question of Privilege," brought up the reasons drawn up by the Committee, together with Minutes of Proceedings.

Reasons read and ordered to be printed, together with accompanying Minutes (See Paper No. 183), and the consideration thereof made an Order of the Day for Tuesday, November 10th.

Tuesday, November 17th, 1857.

9. Privilege Question—On the Order of the Day standing No. 3 on Notice Paper of to-day being read, Mr. Blyth moved—That the following reasons drawn up by the Committee of the House of Assembly, and presented to this House on November 4th, on the Question of Privilege, in reply to those offered by the Legislative Council at a Conference held on the 25th September, be adopted, viz.:—

1. The House of Assembly admits that no argument drawn from analogy can upset or override the express provisions of a written law—and, if there were any express provisions in the Constitution Act, conferring upon the Legislative Council the powers for which it now contends, the House of Assembly would at once cease to protest against their exercise.

2. The House of Assembly further admits that the first section of the Constitution Act, viewed apart from the proviso it contains, gives equal powers to the Legis-

lative Council and to the House of Assembly, and that, consequently, the relative powers of the Legislative Council and House of Assembly must be decided by reference to that proviso; but it conceives that, in ascertaining the meaning of that proviso, since its language has not received any legislative or judicial interpretation, the Legislative Council and House of Assembly must be influenced by a reference to reasons drawn from analogy, and to the practice and Privileges of the Imperial Parliament; and that those reasons, and that practice, are conclusive in favor of the view of its Privileges taken by the House of Assembly.

3. The House of Assembly cannot admit the assumption of the Legislative Council—that there is no analogy between the Legislative Council and the House of Assembly in this Province, on the one hand, and the House of Lords and the House of Commons in the United Kingdom, on the other. On the contrary, it conceives the existence of this analogy to be apparent under almost any aspect; and to be shown even more conclusively by the very exception to which the Legislative Council in its reasons refers, since there could have been no motive for limiting the Privileges of both branches of the Parliament of South Australia to those possessed by the House of Commons had there not been an analogy between the Legislative Council and the House of Lords, which might otherwise have suggested a claim of some of the Privileges of the latter body.

4. The House of Assembly further contends that the right of the House of Commons to originate Money Bills was claimed by that House, and has always been allowed by the Crown and the Lords as a Common Law right; and that the claim of the House of Commons of excluding the House of Lords from modifying or altering such Money Bills was asserted as a Parliamentary Privilege, inherent in and flowing from that right; and that, inasmuch as the Constitution Act vests in the House of Assembly the exclusive right of originating Money Bills, the right to exclude the Legislative Council from modifying or altering these Bills is by direct and necessary implication also conferred.

5. That, in order to facilitate the conduct of public business, this House of Assembly, while asserting its sole right to direct, limit, and appoint in all Money Bills the ends, purposes, considerations, conditions, limitations, and qualifications of the tax or appropriation by

such Bill imposed, altered, repealed, or directed, free from all change or alteration on the part of any other House, will, nevertheless, for the present, adopt the third, fourth, and fifth resolutions, as agreed to by the Legislative Council, on the 25th August, 1857, and forwarded to this House by Message on that day.

Mr. Peake moved an Amendment—To strike out all the words after "That," in the first line, with a view to insert the following—"all aids which are granted in "Parliament are the sole and entire gift, grant, and "present of the House of Assembly of this Province; "and it is the undoubted right and Privilege of the "House of Assembly that such aids are to be raised by "such methods and with such provisions as the House "of Assembly only think proper; and that the Legisla- "tive Council of this Province, by the law and consti- "tution of Parliament, are not to alter any such gift or "grant, or the methods or provisions for collecting, "raising, or enforcing payment thereof."

Debate ensued.

Question—That the words proposed to be struck out stand part of the Question.

House divided.

Ayes, 24; Noes, 2.

Question—That the reasons above mentioned be adopted.

Mr. Burford moved an Amendment—In the fifth reason, after the word "nevertheless," to add the words "without prejudice to either House;" and after the word "resolution," to add the words "for the present."

Question—That the words proposed to be added be so added—put and negatived.

Question—That the reasons above mentioned be adopted—put and passed.

Mr. Blyth moved—That the reasons now adopted by the House be communicated by Message to the Legislative Council.

Question put and passed.

Few Privilege cases recorded.

The Journals of the House do not record many cases of Privilege, properly so called, as distinguished from other rights claimed by the House. A few instances may be quoted.

Thus—

Instances. Petitions commenting on a

On January 8th, 1858, a Member called attention to a breach of Privilege of the House in the presentation

Member's Speech.

of a Petition commenting on the speech of a Member; whereupon the House made order that the Orders of the House for receiving and reading the Petition be read and discharged, and all reference to such Petition in the votes and proceedings of the House be expunged therefrom (V. & P., 1857-8, p. 339).

Publication of Draft Reports of a Select Committee.

On December 20th, 1858, the Speaker called the attention of the House to a publication in a newspaper of the Draft Report of a Select Committee, which had not reported to the House. An explanation was made by a Member to the effect that he, as a Member of the Committee, had received a copy of the Report, which had become misplaced amongst other papers belonging to him, as editor of the said newpaper, and being opened by the assistant editor, had been published. The Member expressed his regrets for what had occurred, and gave assurance of arrangements to prevent a similar occurrence (V. & P., 1858, p. 217).

Letter sent to Member.

On July 31st, 1860, a Member begged to lay before the House a letter sent to him, and moved "that it be "received." On Motion that the document be read, the letter and enclosures were read; but the House negatived the Question (V. & P., 1860, p. 135).

Newspaper articles.

On August 28th, 1862, a Member moved that a leading article in a newspaper of that day was a breach of the Privileges of the House. But, after debate, the Motion was, by leave, withdrawn. In this case there is no record in the Journals of the production of the paper, nor of a statement of the name of the printer and publisher, as required by the Standing Orders (V. & P., 1862, p. 229).

On April 24th, 1872, a Member moved that the printers (names given) of a newspaper "have been "guilty of contempt of this House in publishing the "statement in the issue of the paper of April 24th, "1872." The statement referred to was a criticism of Members' behaviour in the House during a late sitting, and explained it as the consequences of an hour's adjournment for dinner. After debate the Motion was withdrawn (V. & P., 1872, p. 109).

On June 28th 1877, a similar Motion was made, and, after debate, withdrawn (V. & P., 1877, p. 49).

On September 18th, 1883, Motion was made that the printers and publishers of a newspaper were guilty of contempt of the Privilege of the House for making scurrilous and offensive remarks upon several honorable Members. The papers objected to were put in and read; and the Motion was, after debate, negatived, leave to withdraw being refused (V. & P., 1883-4, p. 160).

Urgency essential condition for precedency to Privilege Question.

A Question of Privilege, to be entitled to precedence, must refer to some matter, which has recently arisen, involving the Privileges of the House, and calling for its immediate interposition.

APPENDIX.

Motions and Questions, pp. 129-135.

On page 131 it is stated—"A Member may, on being called on, "ask that the Notice of Motion stand on the Paper for a later "day," &c.

Although this has, on a few occasions, been permitted, it is a practice which, for a long time, has been discontinued as not regular, and more especially as the Standing Orders expressly provide a method for postponing a Motion (Standing Order 107).

It is different in the case of Questions, which, on being called on, are frequently allowed to appear on the Paper for a subsequent day, to meet the convenience of the Minister of whom the Question is asked.

Committees of the Whole House, pp. 180-186.

Attention is called on page 185 to the Standing Order 397, which enacts that a Report from a Committee of the Whole shall be brought up without a Question being put, and to the practice in Committee of the Chairman putting a formal Motion—"That "the resolution be reported," or sometimes, "That the Report be "brought up."

Standing Order 394 provides that, when the Committee has considered all matters referred to it, the Chairman shall be directed to report the same to the House. As such direction can only be based on a Motion in Committee, it is evident that the Standing Order 397 refers to procedure in the House.

The Greater and Lesser Sum—The Longer or Shorter Time (Committee of the Whole House).

The rule that the least sum and the longest time shall be first put to the Question, when there comes a Question between them and the greater sum or shorter time respectively, is confined to Committees of the Whole, and does not apply to proceedings in the House, nor to Committees on Bills, when Amendments are put in the usual way.

JQ 4964 B 55
University of British Columbia Library
DUE DATE

MAR 21 1965	

FORM 310

UNIVERSITY OF B.C. LIBRARY
3 9424 03537 6422